FEDERAL REGISTER

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Washington, Friday, December 22, 1939

The President

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 2552 OF MARCH 21, 1917, WITHDRAWING PUBLIC LANDS FOR LIGHTHOUSE PURPOSES

ALASKA

By virtue of the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Order No. 2552 of March 21, 1917, withdrawing public land in Alaska for lighthouse purposes, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 19, 1939.

[No. 8304]

[F. R. Doc. 39-4725; Filed, December 20, 1939; 1:32 p. m.]

EXECUTIVE ORDER

RESERVING CERTAIN PUBLIC LANDS FOR THE USE OF THE WAR DEPARTMENT FOR MILITARY PURPOSES

ALASKA

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered as follows:

SEC. 1. Executive Order No. 4629 of April 13, 1927, reserving the following-described public lands in Alaska for the use of the Bureau of Biological Survey, Department of Agriculture (which Bureau was transferred to the Department of the Interior by Reorganization Plan No. II,[1] effective July 1, 1939), is hereby revoked:

Fairbanks Meridian

T. 1 S., R. 1 W., sec. 5, lots 2, 3, and 4;
T. 1 N., R. 1 W., sec. 32, N½, SW¼, N½SE¼, and SW¼SE¼; comprising 718.99 acres.

SEC. 2. Subject to the conditions expressed in the above-mentioned acts, and to valid existing rights, the lands described in section 1 of this order are hereby withdrawn and reserved for the use of the War Department for military purposes.

SEC. 3. The reservation made by this order is subject, as to the SW¼NE¼, S½NW¼, and N½SE¼, section 32, T. 1 N., R. 1 W., to the right-of-way of the Alaska Railroad under the act of March 12, 1914, c. 37, 38 Stat. 305.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 19, 1939.

[No. 8305]

[F. R. Doc. 39-4726; Filed, December 20, 1939; 1:32 p. m.]

[1] 4 F.R. 2731 DI.

EXECUTIVE ORDER

TAXES AND LICENSES IN THE CANAL ZONE

By virtue of and pursuant to the authority vested in me by section 401, title 2 of the Canal Zone Code, approved June 19, 1934, I hereby prescribe the following rules and regulations pertaining to taxes and licenses in the Canal Zone:

SECTION 1. *License taxes on certain businesses and occupations.* The following special license taxes shall be collected in the Canal Zone:

(a) For carrying on the business of a peddler, or of a runner soliciting sales of stores and chandlery to vessels, $2.00 per calendar month or fraction thereof: *Provided, however*, that where articles of food only are sold licenses shall be issued without collection of any tax.

(b) For the retail sale of tobacco in any form, $2.00 per calendar month or fraction thereof.

(c) For the retail sale of soda water, other aerated waters, or ice cream, from any fountain, booth, cart, or vehicle, $2.00 per calendar month or fraction thereof.

SECTION 2. *Licenses for certain businesses and occupations.* No person shall engage in any business or occupation described in section 1 of this order unless he is the holder of a valid license therefor issued by the Executive Secretary of the

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THE PRESIDENT

RULES, REGULATIONS, ORDERS

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FEDERAL REGISTER

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Panama Canal or by his authority. An application for a license may be denied if the character of the applicant is such as to warrant the belief that the privilege granted by the license will not be exercised in an orderly and lawful manner. Peddler's licenses issued to persons selling articles of food shall be subject to the condition that in the conduct of such business the licensee shall observe strictly the terms of the license or licenses issued to him and the applicable sanitary regulations, and shall obey the orders of the health officers. A failure so to do shall subject the license to cancelation by the Executive Secretary. Any license issued under this section shall be rendered void by conviction of the licensee, in any court of the Canal Zone, of a violation of law in the exercise of the privilege granted by the license.

SECTION 3. *Punishment for violations.* Under section 402 of title 2 of the Canal Zone Code, any person who engages in any business or occupation described in section 1 of this order without having a valid license therefor, as required by section 2 of this order, is punishable by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both.

SECTION 4. *Revocation of prior order.* Executive Order No. 2062 of October 13, 1914, entitled "Providing for License Taxes and Fees", is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 19, 1939.

[No. 8306]

[F. R. Doc. 39-4727; Filed, December 20, 1939; 1:33 p. m.]

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (U.S.C., title 22, sec. 132), it is ordered that the Foreign Service Regulations of the United States be, and they are hereby, amended by prescribing the following as Chapter XIV thereof:

CHAPTER XIV

PROTECTION AND PROMOTION OF AMERICAN ECONOMIC INTERESTS

XIV-1. *Protection of American interests.* Officers of the Foreign Service shall protect the rights and interests of the United States in its international agricultural, commercial, and financial relations. In pursuance of this duty, they shall:

(a) Guard against the infringement of rights of American citizens in matters relating to commerce and navigation which are based on custom, international law, or treaty.

(b) Observe, report on, and, whenever possible, endeavor to remove discriminations against American agricultural, commercial, and industrial interests in other countries.

(c) Protect the national commercial reputation of the United States.

XIV-2. *Promotion of American interests.* Officers of the Foreign Service shall further the agricultural and commercial interests of the United States:

(a) By carefully studying and reporting on the potentialities of their districts as a market for American products or as a competitor of American products in international trade.

(b) By investigating and submitting World Trade Directory Reports on the general standing and distributing capacity of foreign firms within their districts.

(c) By preparing and submitting upon request trade lists of commercial firms within their districts.

(d) By keeping constantly on the alert for and submitting immediate reports on concrete trade opportunities.

(e) By endeavoring to create, within the scope of the duties to which they are assigned, a demand for American products within their districts.

(f) By facilitating and reporting on proposed visits of alien business men to the United States.

(g) By taking appropriate steps to facilitate the promotion of such import trade into the United States as the economic interests of the United States may require.

XIV-3. *Services for American citizens and business organizations in connection with the conduct of foreign trade.* Officers of the Foreign Service shall perform the following-enumerated services for American citizens and business organizations in connection with the conduct of foreign trade, subject to such rules and limitations thereon as may be prescribed by the Secretary of State:

(a) Answering trade inquiries.

(b) Lending direct assistance to American citizens and business firms.

(c) Encouraging the establishment of, and supporting, American chambers of commerce.

(d) Preparing themselves for and, upon instructions, performing trade conference work when in the United States on leave, or otherwise.

XIV–4. *Submission of reports on economic developments within district.* Officers of the Foreign Service shall prepare and submit reports in connection with their duties of protecting and promoting American agricultural and commercial interests and for the purpose of providing general information on economic developments within their respective districts for the Departments of State, Agriculture, and Commerce, and for other governmental departments and agencies, in accordance with such rules and regulations as the Secretary of State may prescribe.

Cancelation of Regulations

The following provisions of the Foreign Service Regulations of the United States are hereby canceled:

Part I

Sections VIII–13, XI–7, XVI–7, XVI–14, and XVI–17.

Part II

Sections XI–187A, XXVIII–589 to XXVIII–594, inclusive, XXVIII–597 to XXVIII–603E, inclusive, XXVIII–603G, XXVIII–603H, XXVIII–603J to XXVIII–603M, inclusive.

Revocation of Executive Order

Executive Order No. 3987, dated April 4, 1924, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 19, 1939.

[No. 8307]

[F. R. Doc. 39–4728; Filed, December 20, 1939; 1:34 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[FCA 155]

PROHIBITING DIVULGENCE OF INFORMATION CONTAINED IN LOAN APPLICATIONS AND REPORTS IN CONNECTION WITH EMERGENCY CROP AND FEED LOANS

Section 4.4 of Title 6, Code of Federal Regulations, is amended to read as follows:

"§ 4.4 *Prohibiting divulgence of information.* Except upon prior approval of the Governor of the Farm Credit Administration, all employees of the Farm Credit Administration, acting pursuant to the act of Congress approved January 29, 1937 (50 Stat. 5; 12 U.S.C., Sup. 1020i), as amended, or acting pursuant to any prior act or executive order of a similar general character, in administering emergency crop and feed loans made pursuant thereto, are prohibited from disclosing or furnishing, to any person other than an employee of the Federal Government, any information contained in any report upon or in any application for a loan authorized as aforesaid, or from giving out any copies thereof in court or from appearing as witnesses in any litigation, except on behalf of the United States in connection with a case referred to a United States attorney by the Governor, for the purpose of testifying to any facts or knowledge secured by them through any such applications or reports.

"Whenever subpoenas shall have been served on such employees, except subpoenas issued at the request of a United States attorney in connection with a case referred to him by the Governor, they will appear in court in answer thereto and, except with the prior approval aforesaid, will respectfully decline to testify to matters herein referred to as confidential, or to produce records thereof, on the grounds that the same are confidential, and they are prohibited from so doing. No copy of any application or report shall be furnished to any court of the United States or to any other court except on a rule of that court upon the Governor of the Farm Credit Administration requesting such a copy. Whenever such a rule of court shall have been obtained, employees of the Farm Credit Administration are directed to prepare carefully a copy of the application or report containing the information called for and to send it to the Director of the Emergency Crop and Feed Loan Section at Washington, D. C., whereupon (unless existing circumstances or conditions should make it necessary to decline, in the interests of public service, to furnish such a copy) it will be submitted to the Governor of the Farm Credit Administration with the request that it be authenticated under the seal of the Farm Credit Administration and transmitted to the judge of the court requesting it.

"No information of the character hereinabove described as confidential shall be released to an employee of the Federal Government, other than employees of the Emergency Crop and Feed Loan Section, except on the prior approval of the Director of the Emergency Crop and Feed Loan Section. (40 Stat. 635; 41 Stat. 1347; 42 Stat. 467; 43 Stat. 110; 44 Stat. Part II, 1251; 44 Stat. 1245; 45 Stat. 53; 45 Stat. 1306; 46 Stat. 3; 46 Stat. 78, 79; 46 Stat. 254; 46 Stat. 1032; 46 Stat. 1160; 46 Stat. 1276; 47 Stat. 5; 47 Stat. 1466; 47 Stat. 795; E.O. 6084, March 27, 1933, 6 CFR 1.1; 48 Stat. 354; E.O. 6747, June 23, 1934, 6 CFR 1.3, 48 Stat. 1055; 49 Stat. 28; E.O. 7305, February 28, 1936, 6 CFR 1.4; 49 Stat. 115; 50 Stat. 5, 12 U.S.C. Sup., 1020i; 52 Stat. 26, 12 U.S.C., Sup., 1020o note) [FCA Order No. 272, December 21, 1939]"

[SEAL] GERALD E. LYONS,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 39–4749; Filed, December 21, 1939; 12:32 p. m.]

[FCA 156]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN THE CONTINENTAL UNITED STATES

Effective December 21, 1939, the following terms and conditions will apply to loans made by the Governor of the Farm Credit Administration to farmers in the continental United States pursuant to the act of Congress approved January 29, 1937, as amended.

PART 113—LOANS IN THE UNITED STATES

§ 113.1 *Loans in the United States.* Loans will be made for fallowing, for the production of crops, for planting, cultivating, and harvesting crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, and for feed for livestock, or for any of such purposes.*†

*§§ 113.1 to 113.22, inclusive, issued under the authority contained in Sec. 1, 50 Stat. 5; 12 U.S.C., Sup., 1020i. See also 52 Stat. 26.

†The source of §§ 113.1 to 113.22, inclusive, is FCA Order 273, December 21, 1939.

§ 113.2 *Eligibility; general.* Such loans may be made to farmers who have acreage suitable for cultivation, the necessary equipment for farming operations, and livestock for which feed is required, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the actual cash needs, and preference shall be given to the application of farmers whose cash requirements are small.*†

§ 113.3 *Security.* Such loans shall be secured by a first lien, or by an agreement to give a first lien, upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part, with the proceeds of such loan; or, in case of any loan for the purchase and/or production of feed for livestock, a first lien upon the livestock to be fed.*†

§ 113.4 *Applicants agreements.* Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; (2) to plant a garden for home use; and (3) to plant a sufficient acreage of feed crops to supply feed for their workstock and subsistence cattle.*†

§ 113.5 *Loan limitation and interest rate.* No loan made to any borrower shall exceed $400, nor shall a loan be so made in any calendar year which, together with the unpaid principal of prior loans so made to such borrower in that year, shall exceed $400 in amount. No loan will be made for an amount less than $10. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loan is made.*†

§ 113.6 *Farm Security Administration borrowers.* No such loan will be made to any applicant who is a standard re-

*†For statutory and source citations, see note to § 113.1.

habilitation client of the Farm Security Administration or whose application for a standard loan has been approved by the local supervisor of the Farm Security Administration and forwarded to the regional office for approval, as indicated on lists furnished by the Farm Security Administration.*†

§ 113.7 *Available credit.* No such loan will be made to any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made. An applicant for a loan in an amount in excess of a minimum fixed by the Governor, or his representative, for the territory in which the applicant resides, must first submit written evidence from a production credit association that his application for a loan of the same or less amount has been rejected.*†

§ 113.8 *Production credit applicants.* No such loan will be made to any applicant who has an application for a crop or feed loan pending with a production credit association.*†

§ 113.9 *Good faith.* No such loan will be made to any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.*†

§ 113.10 *Members of family units.* No such loan will be made to more than one member of a family unit or to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.*†

§ 113.11 *Other means of livelihood.* No such loan will be made to any applicant who has a means of livelihood other than farming.*†

§ 113.12 *Partnerships, corporations, etc.* No such loan will be made to partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.*†

§ 113.13 *Husband and wife.* No such loan will be made to a wife living with her husband unless the husband joins in the application, note, and mortgage or lien.*†

§ 113.14 *Purchase of machinery, etc.* No such loan will be made for the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.*†

§ 113.15 *Installments.* Loans may be disbursed in one payment or in installments at the discretion of the regional manager.*†

§ 113.16 *Per acre allowance, etc.* No loan for the production of crops will be made to any applicant in an amount greater than his actual cash needs for the production of crops, and for supplies incident and necessary to such production, including feed for workstock and necessary subsistence livestock.

The actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

Maximum Allowances per Acre

	1 Without commercial fertilizer	2 Where commercial fertilizer is used	3 Where commercial fertilizer and spray material, including dust, are used [1]
Grain crops	[2] $2.50	[2] $4.00	
Cotton	4.00	6.00	
Tobacco	4.00	12.00	$13.00
Peanuts	3.00	4.50	
Irish potatoes (commercial)	10.00	25.00	27.50
Truck (commercial)	10.00	22.00	25.00
Miscellaneous crops	[3] 2.00	[3] 3.50	
Sugarcane	12.00	12.00	
Sugar beets	8.00	12.00	
Rice:			
When landlord furnishes water	8.00	8.00	
If landlord does not furnish water	13.00	13.00	
Citrus fruit trees (bearing)	20.00	20.00	20.00
Other fruit trees (bearing)	10.00	14.00	20.00

[1] Where spray material, including dust, is used without commercial fertilizer, the allowance for such spray material and dust will be the difference, if any, between the allowances in column 2 and column 3.

[2] Of the grain allowances shown in the table not more than $1 shall be used for summer fallowing.

[3] In the case of crops not provided for in the table of allowances, if the allowance for miscellaneous crops is not adequate, the Director of the Emergency Crop and Feed Loan Section may fix an allowance not to exceed the actual cost per acre.

These figures include allowances for fuel, oil and feed for workstock for crop production purposes and incidental expenses, for which no additional allowances will be made.

An additional allowance not to exceed $3 per acre will be made for water charges (including maintenance, electric power, and fuel) for crops other than rice grown on irrigated land.

Allowances for commercial fertilizer will be made only in areas where commercial fertilizer is customarily used.*†

§ 113.17 *Feed production allowances.* No loan for the production of feed for livestock will be made in an amount greater than is actually necessary to produce sufficient crops to feed the livestock upon which a mortgage has been given to secure the loan. In no event may a loan for the production of feed for livestock be made on a basis which exceeds a maximum allowance of $2.50 per acre.

This figure includes allowances for seed, fuel, oil, feed for workstock while engaged in the production of the feed crops, and incidental expenses, for which no additional allowances will be made.*†

§ 113.18 *Feed purchase allowances.* No loan for the purchase of feed for livestock will be made in an amount greater than is actually necessary to maintain the livestock until pasturage and/or forage or until feed is available, and in no case may a loan for the purchase of feed for livestock be made on a basis which exceeds the following rates per head of livestock per month:

Maximum Allowances for the Purchase of Feed for Livestock per Head per Month [1]

Stock horses	$3.00
Dairy and breeding cows	4.00
Stock cattle (from 1 to 2 years old)	2.00
Sheep (1 to 6 years, inclusive)	.50
Breeding hogs	1.00

[1] The allowances set forth in this table apply only to loans for the purchase of feed for the kinds of livestock listed above and are not to be used for the feeding of workstock. Feed for workstock is included in the allowances provided for the production of both cash and feed crops.*†

§ 113.19 *Harvesting allowances.* An amount not greater than the actual harvesting and threshing expenses may, in the discretion of the regional manager, be released from the proceeds of the sale of any of the crops covered by a lien given to the Governor in any case where a borrower does not have the necessary funds or credit to pay for the harvesting and threshing of such crops.*†

§ 113.20 *Forms.* The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(a) Application in the form prescribed, signed by the applicant.

(b) Promissory note (or bond in Pennsylvania) in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(c) In order to afford adequate protection and preserve the statutory priority of liens for seed loans made in North

*†For statutory and source citations, see note to § 113.1.

*†For statutory and source citations, see note to § 113.1.

*†For statutory and source citations, see note to § 113.1.

Dakota, South Dakota, Minnesota, and Montana, the following requirements will be observed:

North Dakota. Each applicant in North Dakota who applies for a loan for the purchase of seed, feed for workstock, gas, oil, and minor repairs on farm equipment only, or for one or more of such purposes, shall execute a note for the amount of such loan and secure the repayment of such loan by a crop lien; each applicant in such State who applies for a loan for any or all of the above purposes and for other purposes in addition thereto, shall execute a note for the total amount of such loan and secure the repayment of such loan by a crop mortgage and also shall execute a crop lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed, feed for workstock, gas, oil, and minor repairs on farm equipment, or for one or more of such purposes;

Minnesota. Each applicant in Minnesota who applies for a loan, either for the purchase of seed only or for the purchase of seed and for other purposes, shall execute a note for the total amount of such loan and secure the repayment of the entire loan by a crop mortgage, and in addition thereto shall execute a seed lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed;

South Dakota and Montana. Each applicant in the States of South Dakota and Montana who applies for a loan for the purchase of seed only, shall execute a note for the amount of such loan and secure the repayment thereof by a seed lien; each applicant in the above States who applies for a loan to be used in part for seed and in part for other purposes shall execute a note for the total amount of such loan and secure the repayment thereof by a crop mortgage, and in addition thereto shall execute a seed lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed.

(d) Lien instruments (including waivers) in the form prescribed, conveying a first lien or a promise and authority, properly executed and filed, registered or recorded in the proper office as required by local State law.

(e) A voucher for the amount of the loan in the form prescribed, signed by the applicant.*†

§ 113.21 *Fees.* Fees for recording, filing, registration, an examination of records (including certificates) shall be paid by the borrower; provided, however, that such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.*†

§ 113.22 *Changing regulations.* The right is reserved to revoke, alter, or amend these regulations at any time and without notice.*†

[SEAL] GERALD E. LYONS,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 39-4750; Filed, December 21, 1939; 12:32 p. m.]

*†For statutory and source citations, see note to § 113.1.

[F.C.A. 157]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN THE TERRITORY OF HAWAII

Effective December 21, 1939, the following terms and conditions will apply to loans made by the Governor of the Farm Credit Administration to farmers in the Territory of Hawaii pursuant to the act of Congress approved January 29, 1937, as amended.

PART 114—LOANS IN HAWAII

§ 114.1 *Loans in Hawaii.* Loans will be made for the production of crops, for planting, cultivating, and harvesting crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, or any of such purposes.*†

*§§ 114.1 to 114.19, inclusive, issued under the authority contained in Sec. 1, 50 Stat. 5; 12 U.S.C., Sup. 1020i. See also 52 Stat. 26.
†The source of §§ 114.1 to 114.19, inclusive, is F.C.A. Order 274, December 21, 1939.

§ 114.2 *Eligibility; general.* Such loans may be made to farmers who have acreage suitable for cultivation, the necessary equipment for farming operations, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the actual cash needs, and preference shall be given to the applications of farmers whose cash requirements are small.*†

§ 114.3 *Security.* Such loans shall be secured by a first lien upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part, with the proceeds of such loan.*†

§ 114.4 *Applicants agreements.* Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; and (2) to plant a garden for home use.*†

§ 114.5 *Loan limitation and interest rate.* No loan made to any borrower shall exceed $400, nor shall a loan be so made in any calendar year which, together with the unpaid principal of prior loans so made to such borrower in that year, shall exceed $400 in amount. No loan will be made for an amount less than $25. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loan is made.*†

§ 114.6 *Farm Security Administration borrowers.* No such loan will be made to any applicant who is a standard rehabilitation client of the Farm Security Administration or whose application for a standard loan has been approved by the local supervisor of the Farm Security Administration and forwarded to the regional office for approval, as indicated on lists furnished by the Farm Security Administration.*†

§ 114.7 *Available credit.* No such loan will be made to any applicant who can obtain a loan from other sources in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made.*†

§ 114.8 *Marketing agreements, etc.* No such loan will be made to any applicant who is a pineapple grower unless he has a marketing agreement with a responsible pineapple cannery; to any sugarcane grower unless he signs, or agrees to sign, a grinding contract with an approved central or mill; or to any fruit or vegetable grower, or grower of any other crops, unless he agrees to marketing agreements which are satisfactory to the representative of the Emergency Crop and Feed Loan Office in The Territory of Hawaii.*†

§ 114.9 *Good faith.* No such loan will be made to any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.*†

§ 114.10 *Members of family units.* No such loan will be made to more than one member of a family unit or to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.*†

§ 114.11 *Other means of livelihood.* No such loan will be made to any applicant who has a means of livelihood other than farming.*†

§ 114.12 *Partnerships, corporations, etc.* No such loan will be made to partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.*†

§ 114.13 *Husband and wife.* No such loan will be made to a wife living with her

*†For statutory and source citations, see note to § 114.1.

*†For statutory and source citations, see note to § 114.1.

husband unless the husband joins in the application, note, and mortgage or lien.*†

§ 114.14 *Purchase of machinery, etc.* No such loan will be made for the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interests or for any purpose other than as specified herein.*†

§ 114.15 *Installments.* Loans may be made, subject to the limitations specified herein, in such amounts and in such installments as the Hawaiian representative of the Emergency Crop and Feed Loan Section may approve.*†

§ 114.16 *Per acre allowances, etc.* No loan for the production of crops will be made to any applicant in an amount greater than his actual cash needs for the production of crops, and for supplies incident and necessary to such production, including feed for workstock and necessary subsistence livestock.

The actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

Maximum Allowances per Acre

	Seed or plants	Fertilizer	Spray materials	Cash labor costs	Total
Sugarcane (plant) [1]	------	$40	$10	$50	$100
Sugarcane (ratoon)	------	40	10	25	75
Pineapple (plant) [2]	$30	60	10	100	200
Pineapple (ratoon)	------	60	10	40	110
Coffee	------	40	5	35	80
Rice	------	20	------	20	40

NOTE: Vegetable and Miscellaneous Crops: The cost of seed or plants, fertilizer, and spray materials will be allowed plus a maximum of $10 per acre for hired labor in the case of vegetables only.

[1] Total amount per acre allowed shall not exceed the maximum indicated nor shall it exceed $1.25 a ton based on previous yield records for the same type cane. Where irrigation is practiced, the total allowance for all costs including irrigation shall not exceed $1.25 per ton on estimated yield.

[2] In the case of pineapples where mulching paper is used, an additional allowance not to exceed $60 per acre shall be permitted on approval of the Emergency Crop Loan representative, but in no case shall the total amount loaned per acre exceed $10 per ton based upon past record of performance for both plant and ratoon pineapples.

An amount not greater than the actual harvesting expenses may, in the discretion of the Hawaiian representative of the Emergency Crop and Feed Loan Section, be released from the proceeds of the sale of any of the crops covered by a lien given to the Governor, in any case where a borrower does not have the necessary funds or credit to pay for the harvesting of such crops.*†

§ 114.17 *Forms.* The amount approved for a loan by the Governor or his representatives under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(a) Application in the form prescribed, signed by the applicant.

(b) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(c) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered, or recorded in the proper office, as required by law.

(d) A voucher for the amount of the loan in the form prescribed, signed by the applicant.*†

§ 114.18 *Fees.* Fees for recording filing, registration, and examination of records (including certificates) shall be paid by the borrower: *Provided, however,* That such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.*†

§ 114.19 *Changing regulations.* The right is reserved to revoke, alter, or amend these regulations at any time and without notice.*†

[SEAL] GERALD E. LYONS,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 39-4751; Filed, December 21, 1939; 12:32 p. m.]

[F.C.A. 158]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN PUERTO RICO

Effective December 21, 1939, the following terms and conditions will apply to loans made by the Governor of the Farm Credit Administration to farmers in Puerto Rico pursuant to the act of Congress approved January 29, 1937, as amended.

PART 115—LOANS IN PUERTO RICO

§ 115.1 *Loans in Puerto Rico.* Loans will be made for the production of crops, for planting, cultivating, and harvesting of crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, or for any of such purposes.*†

*§§ 115.1 to 115.20, inclusive, issued under the authority contained in Sec. 1, 50 Stat. 5; 12 U.S.C., Sup., 1020i. See also 52 Stat. 26.

†The source of §§ 115.1 to 115.20, inclusive, is F.C.A. Order 275, December 21, 1939.

§ 115.2 *Eligibility; general.* Such loans may be made to farmers who have acreage fit for cultivation, the necessary equipment for farming operations, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the actual cash needs, and preference shall be given to the application of farmers whose cash requirements are small.*†

§ 115.3 *Security.* Such loans shall be secured by a first lien upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part with the proceeds of such loan.*†

§ 115.4 *Applicants Agreements.* Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; and (2) to plant and cultivate a garden for home use.*†

§ 115.5 *Loan limitation and interest rate.* No loan made to any borrower shall exceed $400, nor shall a loan be so made in any calendar year which, together with the unpaid principal of prior loans so made to such borrower in that year, shall exceed $400 in amount. No loan will be made for an amount less than $25. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loan is made.*†

§ 115.6 *Farm Security Administration borrowers.* No such loan will be made to any applicant who is a standard rehabilitation client of the Farm Security Administration or whose application for a standard loan has been approved by the local supervisor of the Farm Security Administration and forwarded to the regional office for approval, as indicated on lists furnished by the Farm Security Administration.*†

§ 115.7 *Available credit.* No such loan will be made to any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made. An applicant for a loan in an amount in excess of a minimum fixed by the Governor, or his representative, for the territory in which the applicant resides, must first submit written evidence from a production credit association that his application for a loan of the same or less amount has been rejected.*†

§ 115.8 *Production credit applicants.* No such loan will be made to any applicant who has an application for a crop loan pending with a production credit association.*†

§ 115.9 *Marketing agreements, etc.* No such loan will be made to any applicant who is a tobacco, coffee, fruit, or vegetable grower, or grower of any other crops, unless he signs a marketing agreement satisfactory to the representative of the Emergency Crop and Feed Loan Office in Puerto Rico, nor to any cane grower unless he signs or agrees to sign

*†For statutory and source citations, see note to § 141.1.

*†For statutory and source citations, see note to § 115.1.

a grinding contract with an approved central or mill.*†

§ 115.10 *Good faith.* No such loan will be made to any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.*†

§ 115.11 *Other means of livelihood.* No such loan will be made to any applicant who has a means of livelihood other than farming.*†

§ 115.12 *Partnerships, corporations, etc.* No such loan will be made to partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.*†

§ 115.13 *Husband and wife.* No such loan will be made to either a husband or a wife, if living together, unless both join in the application, note, and lien instrument(s).*†

§ 115.14 *Members of family units.* No such loan will be made to more than one member of a family unit nor to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.*†

§ 115.15 *Purchase of machinery, etc.* No such loan will be made for the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.*†

§ 115.16 *Installments.* Loans may be made, subject to the limitations specified herein, in such amounts and in such installments as the Puerto Rican representative of the Emergency Crop and Feed Loan Section may approve.*†

§ 115.17 *Per cuerda allowances, etc.* No loan for the production of crops will be made to any applicant in an amount greater than his actual cash needs for the production of crops, and for supplies incident and necessary to such production, including feed for workstock and necessary subsistence livestock.

The actual cash needs in a particular case must not exceed the actual costs per cuerda in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material, and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per cuerda:

Maximum Allowances per Cuerda

	(1) Without commercial fertilizer	(2) Where commercial fertilizer is used	(3) Where commercial fertilizer is used upon irrigated land
Long staple cotton	$5.00	$10.00	----------
Tobacco [1]	15.00	35.00	----------
Sugar cane (Gran Cultura)	30.00	45.00	$55.00
Sugar cane (Primavera)	20.00	35.00	45.00
Sugar cane (Ratoon)	10.00	25.00	35.00
Cocoanuts [2]	8.00	20.00	----------
Grapefruit and oranges (6 yrs. and over) [3]	15.00	40.00	50.00
Coffee [4]	7.00	27.00	----------
Pineapples	90.00	150.00	----------
Winter vegetables (for shipment to the States)	10.00	25.00	50.00
Miscellaneous crops	5.00	5.00	5.00

[1] A harvesting allowance of $5.00 per cuerda may be made for stalk-cut tobacco, and $15.00 per cuerda for prime tobacco.

[2] When fertilizer is not used, loans shall be limited to $4.00 per thousand estimated yield of cocoanuts and not exceeding 20¢ per tree. When fertilizer is used, loans shall be limited to $10.00 per thousand estimated yield of cocoanuts, not exceeding 50¢ per tree, and not exceeding $20.00 per cuerda in any case.

[3] Not exceeding 30¢ per box estimated crop on tree.

[4] Not exceeding $5.00 per cuerda additional where harvesting advance is made (whether with or without fertilizer).

In addition to the $7.00 allowance provided where fertilizer is not used, $15.00 may be allowed for fertilizer and $5.00 for applying the same.

The use of fertilizer is optional with the borrower, but if an allowance is made for such purpose the following table indicates, for varying acreages in coffee, the number of acres which in each instance is the minimum that must be fertilized and the maximum for which an allowance will be approved:

Number acres in coffee:	*Number acres which must be fertilized and in excess of which no allowance will be approved*
1–5 (inclusive)	½
6–10 (inclusive)	1
11–20 (inclusive)	2
21–40 (inclusive)	3
Over 40	4

The application of fertilizer must be in accordance with the best methods advocated by the Extension Service, and must be under the supervision of the Extension Service field force.*†

§ 115.18 *Forms.* The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(a) Application in the form prescribed, signed by the applicant.

(b) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(c) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered, or recorded in the proper office, as required by law.

(d) A voucher for the amount of the loan in the form prescribed, signed by the applicant.*†

§ 115.19 *Fees.* Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower: *Provided, however,* That such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.*†

§ 115.20 *Changing regulations.* The right is reserved to revoke, alter, or amend these regulations at any time and without notice.*†

[SEAL] GERALD E. LYONS,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 39–4752; Filed, December 21, 1939; 12:33 p. m.]

[FCA 159]

AMENDMENT OF REGULATIONS GOVERNING EMERGENCY CROP AND FEED LOANS IN THE UNITED STATES

Section 113.16 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 113.16 *Per acre allowances, etc.* No loan for the production of crops will be made to any applicant in an amount greater than his actual needs for the production of crops, and for supplies incident and necessary to such production, including feed for workstock and necessary subsistence livestock.

The actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

*†For statutory and source citations, see note to § 115.1.

*†For statutory and source citations, see note to § 115.1.

*†For statutory and source citations, see note to § 115.1.

Maximum Allowances per Acre

	1 Without commercial fertilizer	2 Where commercial fertilizer is used	3 Where commercial fertilizer and spray material, including dust, are used [1]
Grain crops	[2] $2.50	[2] $4.00	----------
Cotton	4.00	6.00	----------
Tobacco	4.00	12.00	$13.00
Peanuts	3.00	4.50	----------
Irish potatoes (commercial)	10.00	25.00	27.50
Truck (commercial)	10.00	22.00	25.00
Miscellaneous crops	[3] 2.00	[3] 3.50	----------
Sugarcane	12.00	12.00	----------
Sugar beets	8.00	12.00	----------
Rice:			
When landlord furnishes water	8.00	8.00	----------
If landlord does not furnish water	13.00	13.00	----------
Citrus fruit trees (bearing)	20.00	20.00	20.00
Other fruit trees (bearing)	10.00	14.00	20.00

[1] Where spray material, including dust, is used without commercial fertilizer, the allowance for such spray material and dust will be the difference, if any, between the allowances in column 2 and column 3.

[2] Of the grain allowances shown in the table not more than $1 shall be used for summer fallowing.

[3] In the case of crops not provided for in the table of allowances, if the allowance for miscellaneous crops is not adequate, the Director of the Emergency Crop and Feed Loan Section may fix an allowance not to exceed the actual cost per acre.

These figures include allowances for fuel, oil, and feed for workstock for crop production purposes and incidental expenses, for which no additional allowances will be made.

An additional allowance not to exceed $3 per acre will be made for water charges (including maintenance, electric power, and fuel) for crops other than rice grown on irrigated land.

Allowances for commercial fertilizer will be made only in areas where commercial fertilizer is customarily used.

The following exceptions are made to the foregoing table of maximum allowances per acre;

(1) The maximum allowance per acre for the purpose of producing and harvesting Irish potatoes (where commercial fertilizer and spray material, including dust, are used) in that section known as the "Eastern Shore," which comprises the State of Delaware and the eastern shore of the States of Maryland and Virginia, shall be $35 per acre.

(2) The maximum allowance per acre to be loaned to tobacco growers in the States of Connecticut and Massachusetts shall not exceed the following:

Without commercial fertilizer	$4.00
Where commercial fertilizer is used	30.00
Where spray material, including dust, is also used, add	3.00

(3) The maximum allowance per acre in the States of Washington, Oregon, and Idaho for fertilizing, spraying, and dusting fruit trees of bearing age, other than citrus, shall not exceed $40 per acre.

(4) The maximum allowance per acre for the purpose of producing Irish potatoes (where commercial fertilizer and spray material, including dust, are used) in the States of Maine, Connecticut, and Massachusetts; in Coon County, New Hampshire, and in the Counties of Suffolk and Nassau on Long Island in New York State, shall not exceed $35 per acre. (Sec. 1, 50 Stat. 5; 12 U.S.C., Sup., 1201i. See also 52 Stat. 26) [FCA Orders Nos. 276, 277, 278, and 279, December 21, 1939]

[SEAL] GERALD E. LYONS,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 39-4753; Filed, December 21, 1939; 12:34 p. m.]

TITLE 12—BANKS AND BANKING

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

DEPOSITS OF APPROVED FEDERAL HOUSING ADMINISTRATION MORTGAGEE

§ 305.4 *Deposits of approved Federal Housing Administration mortgagee.* The owner of any portion of a deposit representing payments made under mortgages insured by the Federal Housing Administrator and appearing on the records of a closed bank under the name of an approved Federal Housing Administration mortgagee or its agent will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank: Provided, That the interest of such owner in the deposit is disclosed on the records maintained by such mortgagee or its agent and, Provided further, That such records have been maintained in good faith and in the regular course of business. (Sec. 101 (m) (3), 49 Stat. 697; 12 U.S.C., Sup., 264 (m) (3)) [Res., June 20, 1939, as amended December 13, 1939]

[SEAL] E. F. DOWNEY,
Secretary.

[F. R. Doc. 39-4740; Filed, December 21, 1939; 11:03 a. m.]

TITLE 19—CUSTOMS

CHAPTER I—BUREAU OF CUSTOMS

[T.D. 50044]

INVOICES—COTTON WASTE

NOTICE OF ADDITIONAL DATA TO BE INCLUDED ON INVOICES OF ALL COTTON WASTES [1]

To Collectors of Customs and Others Concerned:

With reference to article 274 (e) (2), Customs Regulations of 1937, as amended by (1938) T.D. 49426 [Sec. 6.1 (c)], customs invoices for all cotton wastes are required to set forth the following information, in addition to all other information required by law and regulation:

(1) The name by which the cotton waste is known, such as "cotton card strips"; "cotton comber waste"; "cotton lap waste"; "cotton sliver waste"; "cotton roving waste"; "cotton fly waste"; etc;

(2) Whether the length of staple of the cotton from which any cotton card strips covered by the invoice were made is less than $1\frac{3}{16}$ inches or is $1\frac{3}{16}$ inches or more;

(3) Whether the length of staple of the cotton from which any cotton comber waste covered by the invoice was made is less than $1\frac{3}{16}$ inches or is $1\frac{3}{16}$ inches or more.

This requirement shall be effective as to invoices certified after sixty days after publication of this requirement in the weekly Treasury Decisions. (Sec. 481 (a) (10), 46 Stat. 719; 19 U.S.C. 1481 (a) (10))

[SEAL] BASIL HARRIS,
Commissioner of Customs.

Approved, December 15, 1939.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39-4730; Filed, December 20, 1939; 1:39 p. m.]

[T.D. 50045]

INVOICES—RAW COTTON

NOTICE OF ADDITIONAL DATA TO BE INCLUDED ON INVOICES COVERING RAW COTTON [1]

To Collectors of Customs and Others Concerned:

With reference to article 274 (e) (2), Customs Regulations of 1937, as amended by (1938) T.D. 49426 [Sec. 6.1 (c)], customs invoices covering raw cotton are required to set forth, in addition to all other information required by law or regulation, whichever of the following statements is applicable:

(1) The cotton covered by this invoice is harsh or rough cotton of less than $\frac{3}{4}$ inch in staple length;

(2) The staple length of the cotton covered by this invoice is less than $1\frac{1}{8}$ inches;

(3) The staple length of the cotton covered by this invoice is $1\frac{1}{8}$ inches or more.

In the event the above statements, or any of them, are applicable to only part of the merchandise covered by the invoice the part to which each statement is applicable should be specified.

This requirement shall be effective as to invoices certified after sixty days after publication of this document in the weekly Treasury Decisions. (Sec.

[1] This document affects 19 CFR 6.1 (c).

[1] This document affects 19 CFR 6.1 (c).

481 (a) (10), 46 Stat. 719; 19 U.S.C. 1481 (a) (10))

[SEAL] BASIL HARRIS,
Commissioner of Customs.

Approved, December 15, 1939.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39-4731; Filed, December 20, 1939; 1:39 p. m.]

[T.D. 50046]

INVOICES—ARTICLES CONTAINING COPPER

NOTICE OF ADDITIONAL INFORMATION ON INVOICES COVERING ARTICLES CONTAINING COPPER. T.D. 45878 SUPERSEDED IN PART [1]

To Collectors of Customs and Others Concerned:

With reference to article 274 (e) (2), Customs Regulations of 1937, as amended by (1938) T.D. 49426 [Sec. 6.1 (c)], invoices covering articles containing four percent or more of copper (including copper in alloy) by weight are required to contain, in addition to all other information required by law and regulation, whichever of the following statements is applicable:

(1) For the purpose of assessment of tax under I. R. C., Sec. 3425, it is conceded that copper is the component material of chief value in the articles covered by this invoice.

(2) Copper is not the component material of chief value of the articles covered by this invoice but for the purpose of assessment of tax under I. R. C., Sec. 3425 it is conceded that they contain four percent or more of copper by weight.

In the event that statement (1) or statement (2) above is applicable to part only of the articles covered by an invoice, the articles to which either statement applies should be specified.

The requirements of additional information contained in paragraph numbered 6 of (1932) T.D. 45878 are hereby superseded, effective as to consular invoices certified after sixty days after the date of publication of this document in the weekly Treasury Decisions. (Sec. 481 (a) (10), 46 Stat. 719; 19 U.S.C. 1481 (a) (10))

[SEAL] BASIL HARRIS,
Commissioner of Customs.

Approved, December 15, 1939.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39-4732; Filed, December 20, 1939; 1:40 p. m.]

[T.D. 50043]

RESTRICTIONS ON FREE ENTRY OF PHILIPPINE ARTICLES

CUSTOMS REGULATIONS AMENDED [2]

Customs Regulations of 1937 amended by including therein provisions of the Act of August 7, 1939, Public No. 300, 76th Congress, an Act to amend the Philippine Independence Act (48 Stat. 456), relating to articles coming into the United States from the Philippine Islands, and instructions for the enforcement of those provisions.

To Collectors of Customs and Others Concerned:

The Customs Regulations of 1937 are hereby amended as follows:

Article 260 (c) [Sec. 5.3 (b)] is amended to read as follows:

(c) [§ 5.3 (b)] To establish that an article is the growth, product, or manufacture of the Philippine Islands and does not contain foreign materials to the value of more than 20 per centum of its total value there shall be filed in connection with the entry a certificate of origin signed by a collector of customs, deputy collector of customs, or other competent authority of the Philippine Government, but the collector of customs at the port of entry in the United States may require supplementary evidence if he believes that it is necessary. However, in the case of shipments valued at $10 or less such fact may be established by any means satisfactory to such collector. In the absence of such certificate of origin or other required document at the time of entry, a bond on customs Form 7551 or 7553 or other appropriate form, or a deposit of estimated duties, may be taken for the production thereof, except that bond for the production of a bill of lading shall be taken on customs Form 7581 or 7587. (See art. 382 (e) [Sec. 7.17 (e)]) (Secs. 301, 624, 46 Stat. 685, 759; 19 U.S.C. 1301, 1624. Act of August 7, 1939, Pub. No. 300, 76th Congress)

Article 262 is amended to read as follows:

ART. 262 [§ 5.3a] *Philippine Export Tax—Free Entry Quotas Established—Limitation on Admission of Cordage.*—(a) Philippine Independence Act, section 6 (48 Stat. 459), as amended by the Act of August 7, 1939, Public No. 300, 76th Congress, section 1:

SEC. 6. During the period beginning January 1, 1940, and ending July 3, 1946, trade relations between the United States and the Philippines shall be as now provided by law, subject to the following exceptions:

(a) On and after January 1, 1941, the Philippine Government shall impose and collect an export tax on every Philippine article shipped from the Philippines to the United States, except as otherwise specifically provided in this section. Said tax shall be computed in the manner hereinafter set forth in this subsection and in subsection (c) of this section. During the period January 1, 1941, through December 31, 1941, the export tax on every such article shall be 5 per centum of the United States duty; on each succeeding January 1 thereafter the export tax shall be increased progressively by an additional 5 per centum of the United States duty, except that during the period January 1, 1946, through July 3, 1946, the export tax shall remain at 25 per centum of the United States duty.

(b) (1) No export tax described in subsection (a) of this section shall be imposed or collected upon any Philippine article of a class or kind in respect of which a quota is established by subdivision (3) of this subsection, nor upon copra or manila (abaca) fiber not dressed or manufactured in any manner.

(2) The United States duty shall be levied, collected, and paid in the United States upon every article which is of a class or kind in respect of which a quota is established by subdivision (3) of this subsection and which is entered, or withdrawn from warehouse, for consumption after December 31, 1939, in excess of its respective quota: *Provided, however,* That nothing in this section or any subsection thereof shall be construed to exempt the quota of coconut oil therein provided for from the excise taxes provided for in section 2470 of the Internal Revenue Code (I. R. C., ch. 21, sec. 2470).

(3) For the purposes indicated in subdivisions (1) and (2) of this subsection, there are hereby established the following quotas of the designated Philippine articles: For the calendar year 1940, the quotas, hereafter called original quotas, shall be as follows:

a. Cigars (exclusive of cigarettes, cheroots of all kinds, and paper cigars and cigarettes including wrappers), two hundred million cigars;

b. Scrap tobacco, and stemmed and unstemmed filler tobacco described in paragraph 602 of the Tariff Act of 1930, four million five hundred thousand pounds;

c. Coconut oil, two hundred thousand long tons;

d. Buttons of pearl or shell, eight hundred and fifty thousand gross.

For each calendar year thereafter through the calendar year 1945, each of the said quotas shall be the same as the corresponding quota for the immediately preceding calendar year, less 5 per centum of the corresponding original quota.

For the period January 1, 1946, through July 3, 1946, each of said quotas shall be one-half of the corresponding quota specified for the calendar year 1945.

(c) The Philippine Government, in imposing and collecting export taxes on Philippine embroideries, shall compute the tax in accordance with the formulas specified in subsection (a) of this section, except that in determining the taxable value of any such article, an allowance shall be made equal to the cost—cost, insurance, and freight the Philippines—of any cloth of United States origin used in the production thereof.

[1] This document affects 19 CFR 6.1(c).
[2] This document affects 19 CFR 5.3, 5.3a (inserted) and 7.17.

(d) The United States duty shall be levied, collected, and paid, in the United States, upon all Philippine sugars, which are entered, or withdrawn from warehouse, for consumption in any calendar year after 1939, in excess of eight hundred and fifty thousand long tons, of which not more than fifty thousand long tons may be refined sugars: *Provided, however*, That for the period January 1, 1946, through July 3, 1946, the quota of Philippine sugars, not subject to the United States duty, shall be four hundred and twenty-five thousand long tons, of which not more than twenty-five thousand long tons may be refined sugars. Any export tax imposed and collected on Philippine sugars entered or withdrawn from warehouse for consumption in excess of the quotas established by this subsection shall be refunded by the Philippine Government.

(e) Upon the expiration of the Act of June 14, 1935 (49 Stat. 340), as extended to May 1, 1941, by proclamation of the President, dated January 26, 1938, the total amount of all Philippine cordage coming into the United States which may be entered or withdrawn from warehouse, for consumption during the remainder of the calendar year 1941, shall not exceed four million pounds and in any calendar year after 1941 shall not exceed six million pounds: *Provided, however*, That for the period January 1, 1946, through July 3, 1946, the total amount of Philippine cordage which may be entered, or withdrawn from warehouse, for consumption shall not exceed three million pounds.

* * * * *

(h) No article shipped from the Philippines to the United States on or after January 1, 1941, subject to an export tax provided for in this section, shall be admitted to entry in the United States until the importer of such article shall present to the United States collector of customs a certificate, signed by a competent authority of the Philippine Government, setting forth the value and quantity of the article and the rate and amount of the export tax paid, or shall give a bond for the production of such certificate within six months from the date of entry.

* * * * *

(b) Philippine Independence Act (48 Stat. 456), as amended by the Act of August 7, 1939, Public No. 300, 76th Congress, section 5:

SEC. 18. (a) As used in sections 6 * * * of this Act—

(1) The term "United States", when used in a geographical sense, but not the term "continental United States", includes all Territories and possessions of the United States, other than the Philippines.

(2) The term "cordage" includes yarns, twines (including binding twine described in paragraph 1622 of the Tariff Act of 1930 (46 Stat. 675)), cords, cordage, rope and cable, tarred or untarred, wholly or in chief value of manila (abaca) or other hard fiber.

(3) The term "Philippine Government" means the Government of the Commonwealth of the Philippines.

(4) The term "United States duty", when used in connection with the computation of export taxes, means the lowest rate of ordinary customs duty in effect at the time of the shipment of the article concerned from the Philippines and applicable to like articles imported into the continental United States from any foreign country, except Cuba, or when more than one rate of ordinary customs duty is applicable to such like articles, the aggregate of such rates.

(5) The term "refined sugars" possesses the same meaning as the term "direct-consumption sugar" as defined in section 101 of the Sugar Act of 1937.

(6) The term "Philippine article" means an article the growth, produce, or manufacture of the Philippines, in the production of which no materials of other than Philippine or United States origin valued in excess of 20 per centum of the total value of such article was used and which is brought into the United States from the Philippines.

(7) The term "American article" means an article the growth, produce, or manufacture of the United States, in the production of which no materials of other than Philippine or United States origin valued in excess of 20 per centum of the total value of such article was used and which is brought into the Philippines from the United States.

(8) The term "Philippine import duty" means the lowest rate of ordinary customs duty applicable at the port of arrival, at the time of entry, or withdrawal from warehouse, for consumption of the articles concerned, to like articles imported into the Philippines from any other foreign country, or when more than one rate of ordinary customs duty is applicable to such like articles, the aggregate of such rates.

(b) As used in subsection (a) of this section:

(1) The terms "includes" and "including" shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(2) The term "ordinary customs duty" shall not include any import duty or charge which is imposed to compensate for an internal tax imposed in respect of a like domestic product or in respect of a commodity from which the imported product has been manufactured or produced in whole or in part.

* * * * *

(c) Act of August 7, 1939, Public No. 300, 76th Congress, section 7 (b):

(b) Section 1 of this amendatory Act shall remain in full force and effect from the effective date thereof until July 4, 1946, unless the President of the United States shall, prior to July 4, 1946, have found and proclaimed that the Philippine Government has, in any substantial respect, repealed or amended, or failed or refused to enforce or administer any Philippine law referred to in subdivision (2) of subsection (a) of this section. In the event of such a finding and proclamation, section 1 shall immediately become ineffective and trade relations between the United States and the Philippines shall be as provided by section 6 of the Act of March 24, 1934, prior to the enactment of this amendatory Act and by section 13 of the said Act.

* * * * *

(d) United States Code, Sup. IV, title 48, section 1236a:

Effective May 1, 1935, and for three years thereafter, the total amount of all yarns, twines, cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other hard fiber, produced or manufactured in the Philippine Islands, coming into the United States from the Philippine Islands, shall not exceed six million pounds during each successive twelve months period, which six million pounds shall enter the United States duty free.

* * * * *

Pending the final and complete withdrawal of American sovereignty over the Philippine Islands, the President of the United States may, by proclamation, at least ninety days prior to the expiration of the three year period provided herein, extend the operation of this section for an additional period of three years or more, provided such extension is accepted by the President of the Commonwealth of the Philippines.

* * * * *

Except as provided herein, nothing in this section shall be construed to modify or repeal the provisions of any existing law.

The Secretary of the Treasury shall promulgate such rules and regulations as may be necessary to enforce the provisions hereof; and this section shall be enforced as part of the customs law. (June 14, 1935, c. 240, 49 Stat. 340)

[By proclamation the effective date was extended for an additional period of three years from and including May 1, 1938. Proclamation No. 2272,[1] promulgated Jan. 26, 1938.]

(e) Collectors of customs shall submit reports to the Commissioner of Customs, Washington, D. C., on Monday of each week for the week ending the previous Saturday, stating in respect of each shipment from the Philippine Islands (including shipments covered by mail entries or baggage declarations) of any commodity for which a quota is established, the name of the commodity, the port, kind, number, and date of entry, and in the case of a warehouse withdrawal, the date of the issuance of the permit of delivery. In respect of each shipment of cordage, the vessel and the port and date of arrival shall also be stated. Such reports should show the net weight in pounds of coconut oil, sugar, cordage, scrap tobacco, and filler tobacco; the

[1] 3 F.R. 261 DI.

number of cigars; and the number, expressed in gross, of buttons of pearl or shell.

In the case of sugar, such reports should show also the name of the vessel, the net weight in pounds (irrespective of polarization) and the class, i. e., (1) "refined sugars", or (2) "sugars other than refined". As used in this paragraph the term "refined sugars" shall mean any grade or type of product derived from sugar cane or sugar beets, which contains sucrose, dextrose, or levulose, which is principally of crystalline structure, and which is not to be further refined or otherwise improved in quality; and "sugars other than refined" shall mean any grade or type of saccharine product derived from sugar cane or sugar beets, which contains sucrose, dextrose, or levulose, which is principally of crystalline structure but which is to be further refined or otherwise improved in quality. Sugars in dry amorphous form shall be considered to be principally of crystalline structure.

There shall be filed in connection with the entry of sugar arriving from the Philippine Islands an affidavit of the importer stating whether or not such sugar is to be further refined or improved in quality.

(f) When the quotas for the commodities which may be entered for consumption or withdrawn from warehouse for consumption free of duty approach fulfillment, special instructions will be issued by the Bureau.

(g) On and after January 1, 1940, duties shall be assessed and collected on every Philippine article of a class or kind in respect of which a quota is established (except cordage) which is entered for consumption or withdrawn from warehouse for consumption in excess of its respective quota during the quota period for such article, whether or not such article was included in a quota effective at the time of its arrival. Such duties shall be assessed at the lowest rates applicable to like articles the product of any foreign country except Cuba when entered for consumption or withdrawn from warehouse for consumption in the United States. The term "Philippine article" as used in this paragraph means an article the growth, produce, or manufacture of the Philippine Islands, in the production of which no materials of other than Philippine or United States origin valued in excess of 20 per centum of the total value of such article was used and which is brought into the United States from the Philippine Islands, but shall not include any article which is properly entitled to admission free of duty without reference to the exemption provisions of section 301 of the Tariff Act of 1930.

(h) The importer of any article shipped from the Philippine Islands to the United States on or after January 1, 1941, and subject to the Philippine export tax shall be required at the time of entry to produce a certificate signed by a collector of customs, deputy collector of customs, or other competent authority of the Philippine Government setting forth the value and quantity of the article and the rate and amount of the export tax paid. If such certificate is not so produced, a bond for its production within six months from the date of entry shall be given on customs Form 7551 or 7553 or other appropriate form. If the importer fails to produce the required certificate within six months from the date of entry, the collector should make demand for the payment of liquidated damages under the bond and proceed as in the case of other similar demands. Collectors shall scrutinize the certificates furnished and report to the Bureau any substantial errors noted, as well as any failure to furnish a required certificate.

(i) The Philippine Cordage Act of June 14, 1935 (49 Stat. 340) as extended to May 1, 1941, by proclamation of the President, dated January 26, 1938, will continue in operation during the period of extension. The total amount of Philippine cordage, whether or not arriving in the United States before May 1, 1941, which may be entered for consumption or withdrawn from warehouse for consumption, whether or not subject to duty, during any period specified in section 6 (e) of the Act of March 24, 1934 (48 Stat. 456), as amended by section 1 of the Act of August 7, 1939, Public No. 300, 76th Congress, shall not exceed the quantity specified in such section 6 (e) with respect to such period. (R. S. 251; 19 U.S.C. 66. Secs. 1–5, 49 Stat. 340; 48 U.S.C., Sup. IV, 1236a. Act of August 7, 1939, Pub. No. 300, 76th Congress)

Article 382 (d) [§ 7.17 (d)] is amended to read as follows:

(d) [Sec. 7.17 (d)] Shipments from Guam and American Samoa (T.Ds. 23759 and 41839) are entitled to free entry when accompanied by a certificate of the chief customs officer at the port of shipment showing the articles to be the growth or product of those Islands or actual importations into the Islands. When the article is not accompanied by such certificate and is of a class or kind which would be subject to duty if not within the purview of this paragraph, estimated duties should be collected and the addressee advised by notation on the copy of the entry form (customs Form 3419) tendered as a receipt that the estimated duty may be refunded upon production of the certificate within six months. In such cases, liquidation of the entry should be suspended for a period of six months from the date of the entry. Upon the production of the certificate within six months, the entry should be liquidated free of duty and the estimated duty refunded. Otherwise, the entry should be liquidated as dutiable. Products of Guam or American Samoa valued at $10 or less are not required to be accompanied by such certificate if the collector is otherwise satisfied that the articles are entitled to free entry. (R.S. 251; 19 U.S.C. 66. Secs. 498 (a), 624, 46 Stat. 728, 759; 19 U.S.C. 1498 (a), 1624)

Article 382 [§ 7.17] is also amended by adding at the end thereof the following new paragraphs:

(e) [§ 7.17 (e)] Certain shipments from the Philippine Islands or the Virgin Islands of the United States are entitled to entry free of duty under the conditions set out in articles 260 [Sec. 5.3] to 262 [Sec. 5.3a], inclusive, or article 272 [Sec. 5.10], respectively. Such shipments valued at more than $10 but not more than $100, when accompanied by a certificate of Philippine origin, and any such shipments valued at $10 or less, may be passed without the issuance of a mail entry provided the collector is satisfied that the merchandise is entitled to free entry and is not of a class subject to a quota limitation on free entry. (See art. 262 [Sec. 5.3a].) The provisions of chapters V and VI should be followed in the case of shipments over $100 in value.

(f) [§ 7.17 (f)] Shipments forwarded by mail from the Philippine Islands on and after January 1, 1941, if subject to the Philippine export tax referred to in article 262 [Sec. 5.3a] and valued at more than $10, shall be accompanied by a certificate signed by the collector of customs, deputy collector of customs, or other competent authority in the Philippine Islands, setting forth the value and quantity of the article and the rate and amount of export tax paid. In the absence of such certificate, the estimated duty collected shall be treated as a cash deposit in lieu of bond for production of the certificate and the addressee advised by notation on the copy of the entry form (customs Form 3419) tendered as a receipt that the deposit may be refunded upon production of the export-tax certificate and the certificate of Philippine origin within six months. In such cases, liquidation of the entry should be suspended for a period of six months from the date of entry. If neither the export-tax certificate nor the certificate of origin is furnished within the six-months period, the shipment shall be treated as of non-Philippine origin and subject to duty but not subject to the requirement of an export-tax certificate. If one certificate but not the other is produced, the matter should be referred to the Bureau for instructions. (R.S. 251; 19 U.S.C. 66. Secs. 301, 624, 46 Stat. 685, 759; 19 U.S.C. 1301, 1624. Secs. 1–5, 49 Stat. 340; 48 U.S.C., Sup. IV, 1236a. Act of August 7, 1939, Pub. No. 300, 76th Congress)

The foregoing regulations shall be effective on and after January 1, 1940.

[SEAL] BASIL HARRIS,
Commissioner of Customs.

Approved, December 19, 1939.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39–4729; Filed, December 20, 1939; 1:39 p. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINISTRATION

Order Promulgating a Regulation Fixing and Establishing a Reasonable Definition and Standard of Identity for the Food Commonly Known as Canned Peaches

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held [1] in accordance with law, detailed findings of fact are made, as follows:

FINDINGS OF FACT

1

Canned peaches are prepared from mature peaches.

2

Such peaches are of one of the following varietal groups: yellow clingstone, yellow freestone, white clingstone, white freestone.

3

Peaches of different varietal groups are not canned together.

4

Peaches of each varietal group are an optional peach ingredient.

5

The word "free" is used synonymously with the word "freestone" and the word "cling" is used synonymously with the word "clingstone" to designate the varietal group.

6

Such peaches are prepared in one of the following forms of units: unpeeled whole; unpeeled halves; peeled whole; peeled halves; peeled quarters; peeled slices; peeled dice; peeled mixed pieces of irregular sizes and shapes. Such forms of units are never mixed in canning except when canned as mixed pieces of irregular sizes and shapes. Peaches of each form of units are an optional peach ingredient.

7

Such peaches, except in the case of whole peaches, are pitted.

8

Canned peaches contain a suitable liquid packing medium.

9

Water is a suitable liquid packing medium.

10

The natural juice of the peach is a suitable liquid packing medium. Such juice may be obtained by precooking the peaches so that the juice exudes.

11

(a) A water solution of refined sugar (sucrose), with or without refined corn sugar (dextrose), is a suitable liquid packing medium. The water solution of such sugar or sugars used as a liquid packing medium is called sirup.

(b) A water solution of refined corn sugar (dextrose) cannot be used alone as the liquid packing medium in the canning of peaches. The maximum amount of refined corn sugar (dextrose) heretofore used for commercial purposes, in combination with refined sugar (sucrose), in the canning of peaches is 33⅓ percent of such combination.

(c) Refined corn sugar (dextrose) is not as sweet as refined sugar (sucrose), being generally regarded as from 50 percent to 75 percent as sweet as refined sugar (sucrose). Consumers are accustomed to gauge sweetness according to that of refined sugar (sucrose).

12

(a) There are four sirups of different degrees of sweetness known to consumers and used in the industry; namely, light, medium, heavy, and extra heavy. It is a customary trade and consumer practice so to distinguish them. Such sirups are measured and distinguished by their specific gravity as determined by the Brix hydrometer. The Brix hydrometer is a reliable instrument for testing specific gravity of liquid solutions and is in general use. A water solution of refined sugar (sucrose) which shows a reading of less than 10° on the Brix hydrometer does not sweeten the finished canned peaches sufficiently to be known as a sirup for this food.

(b) When such sirups are prepared from refined sugar (sucrose), they have, respectively, the following readings on the Brix hydrometer: light sirup, not less than 10° but less than 25°; medium sirup, not less than 25° but less than 40°; heavy sirup, not less than 40° but less than 55°; and extra heavy sirup, not less than 55°.

(c) When such sirups of equivalent sweetness are prepared from a mixture of refined sugar (sucrose) and refined corn sugar (dextrose), they do not have the above readings on the Brix hydrometer because of the difference in sweetness between refined corn sugar (dextrose) and refined sugar (sucrose). However, the Brix reading of a refined sugar (sucrose) solution equivalent in sweetness to the sweetness of any sirup prepared from such a mixture is obtained by adding the percent by weight of refined sugar (sucrose) in such sirup to two-thirds of the percent by weight of refined corn sugar (dextrose) in such sirup.

(d) The common or usual names of such sirups are light sirup, medium sirup, heavy sirup, and extra heavy sirup.

(e) The terms "sirup" and "syrup" are synonymous.

13

The liquid of the finished canned peaches is not more than 35° Brix.

14

Canned peaches may or may not contain added spice.

15

Canned peaches may or may not contain added flavoring.

16

(a) Canned peaches may or may not be seasoned.

(b) A vinegar is a suitable seasoning agent.

(c) Added peach kernels are a suitable seasoning agent, except in the case of whole peaches.

(d) Peach pits, added in limited amounts, are a suitable seasoning agent, except in the case of whole peaches. The number of pits suitable for such purpose is limited to not more than one to each eight ounces of finished canned peaches.

(e) Such seasoning agents are used singly or in combination, except that peach pits and peach kernels are not used in combination with each other.

17

It is essential that canned peaches be sealed in a container.

18

It is essential to process canned peaches by heat so as to prevent spoilage.

19

Honesty and fair dealing in the interest of the consumer require that the optional peach ingredient, the optional liquid packing medium, and the optional seasoning ingredients be declared on the label, and that, if spice or flavoring is added, this be stated on the label.

20

The common or usual names of the several varietal groups of peaches are yellow clingstone, or yellow cling; yellow freestone, or yellow free; white clingstone, or white cling; and white freestone, or white free.

21

The common or usual name of peeled canned peaches is peaches, qualified by the name of the varietal group and form of unit, without other qualifying words, except that "slices" and "sliced" are synonymous and "dice" and "diced" are synonymous.

22

The common or usual name of unpeeled canned peaches is peaches, qualified by the term unpeeled, by the name of the varietal group, and by the name of the form of unit.

[1] 4 F.R. 1143 DI.

23

The common or usual name of water used as a liquid packing medium in canned peaches is water.

24

The common or usual name of the natural juice of the peach used as a liquid packing medium in canned peaches is peach juice.

25

The common or usual names of the water solutions of sugar or sugars used as liquid packing media in canned peaches are: light sirup, or light syrup; medium sirup, or medium syrup; heavy sirup, or heavy syrup; and extra heavy sirup, or extra heavy syrup.

26

The common or usual name of a vinegar used as a seasoning is vinegar.

27

The common or usual name of peach pit kernels used as a seasoning is peach kernels.

28

The common or usual name of peach pits used as a seasoning is peach pits.

29

Honesty and fair dealing in the interest of the consumer require that, when spice, flavoring, vinegar, peach pits, or peach kernels are used, the label bear the words, respectively: "Spiced" or "With Added Spice" or "Spice Added"; "With Added Flavoring" or "Flavoring Added"; "Seasoned with Vinegar"; "Seasoned with Peach Pits"; "Seasoned with Peach Kernels". If two or more of such optional ingredients are present, such words may be combined, as, for example, "With Added Spice, Flavoring, and Vinegar".

30

Honesty and fair dealing in the interest of the consumer require that, wherever the name "peaches" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the names of the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the specific varietal name of the peaches may so intervene.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEACHES

§ 27.000 *Canned peaches—Identity; label statement of optional ingredients.* (a) (1) Canned peaches are the food prepared from mature peaches of one of the following varietal groups: yellow clingstone; yellow freestone; white clingstone; white freestone. Such peaches, except in the case of whole peaches, are pitted and are in one of the following forms of units: peeled whole; unpeeled whole; peeled halves; unpeeled halves; peeled quarters; peeled slices; peeled dice; peeled mixed pieces of irregular sizes and shapes. Peaches of each varietal group in each form of units are an optional peach ingredient.

(2) To one such peach ingredient is added one of the following optional liquid packing media:

(A) A sirup of refined sugar (sucrose) of not less than 10° Brix but less than 25° Brix;

(B) A sirup of refined sugar (sucrose) and refined corn sugar (dextrose) having a refined sugar (sucrose) equivalent of not less than 10° Brix but less than 25° Brix (such refined sugar (sucrose) equivalent is calculated by adding the percent by weight of refined sugar (sucrose) in such sirup to two-thirds of the percent by weight of refined corn sugar (dextrose) in such sirup);

(C) A sirup of refined sugar (sucrose), of not less than 25° Brix but less than 40° Brix;

(D) A sirup of refined sugar (sucrose) and refined corn sugar (dextrose) having a refined sugar (sucrose) equivalent of not less than 25° Brix but less than 40° Brix (such refined sugar (sucrose) equivalent is calculated by adding the percent by weight of refined sugar (sucrose) in such sirup to two-thirds of the percent by weight of refined corn sugar (dextrose) in such sirup);

(E) A sirup of refined sugar (sucrose), of not less than 40° Brix but less than 55° Brix;

(F) A sirup of refined sugar (sucrose) and refined corn sugar (dextrose) having a refined sugar (sucrose) equivalent of not less than 40° Brix but less than 55° Brix (such refined sugar (sucrose) equivalent is calculated by adding the percent by weight of refined sugar (sucrose) in such sirup to two-thirds of the percent by weight of refined corn sugar (dextrose) in such sirup);

(G) A sirup of refined sugar (sucrose), of not less than 55° Brix;

(H) A sirup of refined sugar (sucrose) and refined corn sugar (dextrose) having a refined sugar (sucrose) equivalent of not less than 55° Brix (such refined sugar (sucrose) equivalent is calculated by adding the percent by weight of refined sugar (sucrose) in such sirup to two-thirds of the percent by weight of refined corn sugar (dextrose) in such sirup);

(I) Peach juice;

(J) Water.

(3) Spice may be added.

(4) Flavoring may be added.

(5) The food may be seasoned with one or more of the following optional seasonings:

(A) A vinegar;

(B) Peach pits (except in the case of whole peaches), not more than 1 to each 8 ounces of finished canned peaches;

(C) Peach kernels (except in the case of whole peaches and except when optional seasoning (B) is present).

(6) The food is sealed in a container and so processed by heat as to prevent spoilage.

(7) The liquid of the finished canned peaches is not more than 35° Brix.

(b) (1) The label shall name the optional peach ingredient present by the use of the words "Yellow Cling" or "Yellow Clingstone", "White Cling" or "White Clingstone", "Yellow Free" or "Yellow Freestone", or "White Free" or "White Freestone" and the word or words "Whole", "Unpeeled Whole", "Halves", "Unpeeled Halves", "Quarters", "Slices" or "Sliced", "Dice" or "Diced", or "Mixed Pieces of Irregular Sizes and Shapes".

(2) The label shall also bear the words "In Light Sirup" or "In Light Syrup", showing the presence of optional liquid packing medium (A) or (B); or the words "In Medium Sirup" or "In Medium Syrup", showing the presence of optional liquid packing medium (C) or (D); or the words "In Heavy Sirup" or "In Heavy Syrup", showing the presence of optional liquid packing medium (E) or (F); or the words "In Extra Heavy Sirup" or "In Extra Heavy Syrup", showing the presence of optional liquid packing medium (G) or (H); or the words "In Peach Juice", showing the presence of optional liquid packing medium (I); or the words "In Water", showing the presence of optional liquid packing medium (J).

(3) If spice is present, the label shall bear the word or words "Spiced" or "With Added Spice" or "Spice Added".

(4) If flavoring is present, the label shall bear the words "With Added Flavoring" or "Flavoring Added".

(5) If an optional seasoning ingredient is used, the label shall bear the words "Seasoned with Vinegar", "Seasoned with Peach Pits", or "Seasoned with Peach Kernels", as the case may be.

(6) If spice and flavoring, or spice, flavoring, and an optional seasoning, or spice and an optional seasoning, or flavoring and an optional seasoning, are present, the label may bear a combination of words, as, for example, "With Added Spice, Flavoring, and Vinegar."

(7) Wherever the name "Peaches" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the peaches may so intervene.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 18th day of December, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4706; Filed, December 19, 1939; 10:17 a. m.]

ORDER PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD FILL OF CONTAINER FOR THE FOOD COMMONLY KNOWN AS CANNED PEACHES

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held in accordance with law, detailed findings of fact are made, as follows:

FINDINGS OF FACT

1

The quantity of the optional peach ingredient which can be placed in a container varies, depending upon the method of packing and upon the shape, size, degree of maturity, and specific gravity of the units of the optional peach ingredient.

2

With the exception of comparatively few slack filled cans, canned peaches as they appear on the market at the present time contain the maximum quantity of the optional peach ingredient which, using reasonably good factory practice, can be placed and sealed in each can and processed by heat to prevent spoilage, without crushing or breaking the peach units.

3

The maximum quantity of the optional peach ingredient varies, depending on the size of the container, the method of packing, the form, size, firmness of units, the necessity for having sufficient liquid to insure proper processing, and other factors.

4

The can should contain the greatest number of peach units the canner can place therein and properly seal and process.

5

Knowing the form, shape, size, degree of maturity and comparative specific gravity of the peach units in any lot being canned, canners know the greatest amount of peach units which can be placed in a can of any given size without damage, and canners employ inspectors to insure proper filling by packers.

6

None of the various methods which have been studied for objective measurements of fill have shown any uniform correlation between the quantity of peach units put in and the quantity of peach units cut out. Assurance to the consumer of a can full of peaches can be obtained only by a requirement as to the quantity put in the container.

7

It is necessary and desirable in the interest of the consumer that canned peaches falling below a standard of fill of container bear on the label a simple and understandable statement of that fact. "Below Standard in Fill" is such a statement.

8

If canned peaches fall below a standard of fill of container, it is necessary and desirable in the interest of the consumer that the label bear the statement "Below Standard in Fill", printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement should be in 12-point type; if such quantity is 1 pound or more, the statement should be in 14-point type. Such statement should be enclosed within lines not less than 6 points in width, forming a rectangle; but if the peaches also fall below the standard of quality for canned peaches and bear the label statement of substandard quality specified in the standard of quality for canned peaches, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, should be on a strongly contrasting, uniform background, and should be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD FILL OF CONTAINER FOR THE FOOD COMMONLY KNOWN AS CANNED PEACHES

§ 27.002 *Canned peaches—Fill of container; label statement of substandard fill.* (a) The standard of fill of container for canned peaches is the maximum quantity of the optional peach ingredient which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient.

(b) If canned peaches fall below the standard of fill of container prescribed in subsection (a) of this section, the label shall bear the general statement of substandard fill specified in section 10.020 (b), in the manner and form therein specified.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 20th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4733; Filed, December 20, 1939; 3:02 p. m.]

ORDER PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE STANDARD OF QUALITY AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD QUALITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEACHES

Pursuant to the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046, 21 U.S.C. 341), and based upon substantial evidence of record at the hearing heretofore held in accordance with law, detailed findings of fact are made, as follows:

FINDINGS OF FACT

1

Factors which go to make up quality in canned peaches are tenderness of the peach ingredient; size of units in the case of peach halves and quarters; uniformity of size of units in the cases of whole peaches, halves, and quarters; absence of peel in all forms of the peach unit except in the case of unpeeled peaches; freedom from blemishes; the shape of the units in the cases of whole peaches, halves, quarters, and slices; freedom from crushed or broken units except in the case of mixed pieces of irregular sizes and shapes.

2

In canned peaches, the biting or chewing characteristic of the peach is an index of the quality factor, tenderness. This factor involves the maturity of the peach and the extent to which it has been cooked.

3

Such tenderness is measurable objectively by the following method:

So trim a test piece from the unit as to fit, with peel surface up, into a sup-

porting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 1⅛ inches inside diameter, with vertical sides; or rectangular in shape, ¾ inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of ¾ inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least ½ inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod 5/32 inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

4

Forms of units of the peach ingredient too small for such testing or too soft for such trimming need not be tested for tenderness.

5

The foregoing method outlined in Finding No. 3 is directly correlated with the consensus of consumer opinion of what constitutes tenderness in canned peaches.

6

Size of units, as measured by the weight of the unit, is not a factor of quality in canned peaches except in the cases of halves and quarters.

7

Canned peaches which are of standard quality have a minimum size for halves and quarters at the present time. Halves and quarters smaller than such minimum size are commonly packed as substandard peaches at the present time.

8

Halves and quarters have a minimum size of 3/5 ounce and 1/3 ounce, respectively. These minima are less than the minima adopted by the packers of over 97 percent of the canned peaches produced in the United States.

9

Such weights are determinable as follows: The unit is placed on a screen and the liquid is allowed to drain therefrom for two minutes. The unit is then weighed.

10

Uniformity of size of units is not a factor of quality in canned peaches unless the units are whole, halves, or quarters. Uniformity of size cannot be controlled under the best commercial practice in the cases of slices and dice. Discrepancies in size are not objectionable to the consumers when the units are small, such as slices or dice. Uniformity of size is obviously not a factor in the quality of the product when canned as mixed pieces of irregular sizes and shapes.

11

Uniformity of size of units in the cases of whole, halves, or quarters is necessary in order to prevent variant numbers of units in servings of desserts and salads on the same table.

12

Such units are of reasonable uniformity of size if the weight of the largest unit is not more than twice the weight of the smallest unit in the container. Weights of such units are determined in the same manner as weights for minimum size of units.

13

Absence of peel is a factor of quality in canned peaches except in the case of peaches canned as unpeeled peaches.

14

Adhering peel ordinarily can be removed completely from the peach, but some peel is occasionally left in good commercial practice. One square inch of peel per pound of net content is a reasonable maximum tolerance for peel present in the finished product.

15

Freedom from blemishes such as scab, hail injury, discoloration, or other abnormalities is a factor of quality in canned peaches.

16

A tolerance for blemishes is necessary because of small blemishes not apparent in hand sorting as carried out under good commercial practice. Twenty percent blemished units is a reasonable tolerance.

17

Normal shape of the peach unit is a factor of quality in canned peaches if the units are whole, halves, quarters, or slices.

18

When the units are trimmed, normal shape can be preserved. It is possible for the canner to meet this quality factor by discarding all units so trimmed that their normal shape is not preserved. Consumers uniformly object to unevenly trimmed units.

19

Except in the case of mixed pieces of irregular sizes and shapes, freedom from crushed or broken units is a factor of quality in canned peaches. A crushed unit is a unit pressed so as to destroy its normal shape. A broken unit is a unit separated into two or more parts. Units which do not have normal shape because of ripeness and which do not show any crushing are not crushed or broken units. Crushed and broken units are not deliberately packed as canned peaches which are of standard quality at the present time. The concussion resulting from the application of the lid to the can at high speeds under great pressure sometimes breaks or crushes the topmost unit of well-filled containers in good commercial practice. For this reason, a tolerance for crushed and broken units is necessary, and a tolerance of 5 percent for containers of more than 20 units or of 1 unit for containers of less than 20 units is reasonable.

20

A canner employing good commercial practice can meet each of the foregoing factors of quality in canned peaches without difficulty.

21

Each factor of quality takes into consideration and makes due allowance for the differing characteristics of the several varieties of peaches. Some varieties can meet the various factors more easily than others, but all varieties can meet the foregoing factors of quality without difficulty under good commercial practice.

22

It is reasonable and it will promote honesty and fair dealing in the interest of the consumer to have a simple and understandable statement of substandard quality placed on the label. "Below Standard in Quality", qualified by an explanation wherein the product falls below standard in quality, is such a statement. If the peaches are not tender, the qualifying statement "Not Tender" furnishes an accurate explanation of the reason the product is below standard. Likewise, the qualifying statement "Small Halves", or "Small Quarters", if under minimum size; "Mixed Sizes", if not of uniform size; "Not Well Peeled", if over the tolerance for peel; "Blemished", if over the tolerance for blemishes; "Unevenly Trimmed", if trimmed to destroy normal shape; "Partly Crushed or Broken", if over the tolerance for crushed or broken units.

23

It is reasonable and it will promote honesty and fair dealing in the interest of the consumer to have such statement immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name

"Peaches", together with words and statements required or authorized to appear with such name by the definition and standard of identity for canned peaches.

24

Such label requirements for peaches of substandard quality would not be practicable under good commercial practices in instances such as where the product fell below the standard in several respects.

25

In such event, the statement "Below Standard in Quality Good Food—Not High Grade" would be reasonable, would be informative to the consumer, and would promote honesty and fair dealing in the interest of the consumer.

26

It is reasonable and it would promote honesty and fair dealing in the interest of the consumer to have such statement printed in two lines of Cheltenham bold condensed caps. The words "Below Standard in Quality" to constitute the first line, and the second to immediately follow. If the quantity of the contents of the container is less than 1 pound, such type of the first line should be 12-point, and of the second, 8-point. If such quantity is 1 pound or more, such type of the first line should be 14-point, and of the second, 10-point. Such statement should be enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, should be on a strongly contrasting, uniform background, and should be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FIXING AND ESTABLISHING A REASONABLE STANDARD OF QUALITY AND SPECIFYING THE FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD QUALITY FOR THE FOOD COMMONLY KNOWN AS CANNED PEACHES

27.001 *Canned peaches—Quality; label statement of substandard quality.* (a) The standard of quality for canned peaches is as follows:

(1) All units tested in accordance with the method prescribed in subsection (b) are pierced by a weight of not more than 300 grams;

(2) In the cases of halves and quarters, the weight of each unit is not less than $\frac{3}{5}$ ounce and $\frac{3}{10}$ ounce, respectively;

(3) In the cases of whole peaches, halves, and quarters, the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein;

(4) Except in the case of unpeeled peaches, there is present in the finished canned peaches not more than 1 square inch of peel per each 1 pound of net contents;

(5) Not more than 20 percent of the units in the container are blemished with scab, hail injury, discoloration, or other abnormalities;

(6) In the cases of whole peaches, halves, quarters, and slices, all units are untrimmed, or are so trimmed as to preserve normal shape; and

(7) Except in the case of mixed pieces of irregular sizes and shapes, not more than 5 percent of the units in a container of 20 or more units, and not more than one unit in a container of less than 20 units, is crushed or broken. (A unit which has lost its normal shape because of ripeness and which bears no mark of crushing shall not be considered to be crushed or broken.)

(b) Canned peaches shall be tested by the following method to determine whether or not they meet the requirements of clause (1) of subsection (a):

So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of $1\frac{1}{8}$ inches inside diameter, with vertical sides; or rectangular in shape, $\frac{3}{4}$ inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of $\frac{3}{4}$ inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least $\frac{1}{2}$ inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod $\frac{5}{32}$ inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(c) If the quality of canned peaches falls below the standard prescribed in subsection (a) of this section, the label shall bear the general statement of substandard quality specified in section 10.020 (a), in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below Standard in Quality ------", the blank to be filled in with the words specified after the corresponding number of each clause of subsection (a) of this section which such canned peaches fail to meet, as follows: (1) "Not Tender"; (2) "Small Halves", or "Small Quarters", as the case may be; (3) "Mixed Sizes"; (4) "Not Well Peeled"; (5) "Blemished"; (6) "Unevenly Trimmed"; (7) "Partly Crushed or Broken". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Peaches" and any words and statements required or authorized to appear with such name by section 27.000 (b).

It is ordered that the regulation hereby prescribed and promulgated shall become effective on the ninetieth day after the issuance of this order and the filing of the same with the Archivist of the United States for publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 20th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4734; Filed, December 20, 1939; 3:02 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 203—BRIDGE REGULATIONS [1]

§ 203.467 *Hillsboro River at Tampa, Fla.; bridge (highway) at Hillsborough Avenue.* (a) The owner or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the aforementioned bridge between the hours of 10:00 p. m. and 6:00 a. m.

(b) Whenever, in the event of an emergency, a vessel, unable to pass under the closed bridge, is required to pass through the drawspan between these hours, at least one-hour's advance notice of the time the opening is required shall be given to the authorized representative

[1] These regulations supplement Part 203, Chapter II, Title 33, Code of Federal Regulations.

of the owner or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can easily be read at any time, a copy of these regulations, together with a notice stating exactly how the representative specified in paragraph (b) may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at least once every four months to make certain that the machinery is in proper order for satisfactory operation.

(f) These regulations shall take effect and be in force on and after December 15, 1939, and are supplemental to the "Rules and regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries". (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Special Regulations, Dec. 11, 1939 (E.D. 6371 (Florida—Hillsborough R.: Tampa—Hillsborough Ave.)—8/4)]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39-4738; Filed, December 21, 1939; 10:46 a. m.]

PART 204—DANGER ZONE REGULATIONS [1]

§ 204.80 *Archer Creek, S. C.; United States Marine Corps Rifle Range, Parris Island.* (a) The firing range, which constitutes a danger zone, is located on the west side of Parris Island, and west of the Marine Barracks on the Island, the direction of the firing being northwesterly across Ribbon Creek and Archer Creek.

(b) Firing over this range will normally take place between the hours of 6:00 a. m. and 5:00 p. m. on all days except Saturdays, Sundays, and legal holidays.

(c) When firing is in progress, patrol boats will be stationed at each end of Archer Creek to restrict the use of the creek for navigation and to notify boats desiring to pass through Archer Creek when such passage will be safe and permissible.

(d) These regulations will be enforced by the Commanding General, Marine Barracks, Parris Island, South Carolina, through such officers, enlisted men, and employees as may be designated, using such Government equipment as may be necessary. (Sec. 7, River and Harbor Act, Aug. 8, 1917, 40 Stat. 266; 33 U.S.C. 1) [Regs. Dec. 6, 1939 (E.D. 7195 (Archer Creek, S. C.) ¼]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39-4739; Filed, December 21, 1939; 10:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

CHAPTER I—GENERAL LAND OFFICE

REGULATIONS FOR THE SALE OF TOWN LOTS IN THE TOWNSITE OF ORO FINO, CALIFORNIA

1. *Statutory authority.* The lots in the townsite of Oro Fino, California, will be disposed of under Sections 2382 to 2386, Revised Statutes.

2. *Survey and history.* The survey of the townsite of Oro Fino, California, comprising the E½SW¼NE¼, E½SW¼ SW¼NE¼ Section 18, T. 43 N., R. 9 W., M. D. M., California, was accepted on November 18, 1938. The SW¼NE¼ above Section 18 was formerly embraced in a patent which was canceled December 4, 1926, on the ground of fraud, and such land was withdrawn for townsite purposes by Executive Order No. 4590, dated February 18, 1927. Various portions of this tract were occupied and claimed for many years by a number of settlers and claimants as a part of an old mining district known as Oro Fino. In subdividing the townsite under the above survey, the claims were surveyed as separate tracts in conformity with the boundaries thereof as they were found to exist on the ground.

3. *Acreage and price.* The acreage and minimum price of the lots which will be sold, are as follows:

Lot 11, 2.75 acres	$60
Lot 12, 1.97 acres	40
Lot 13, 1.15 acres	25
Lot 14, 2.12 acres	40
Lot 15, 0.72 acres	20
Tract 43, 2.13 acres	75
Tract 44, 2.94 acres	100
Tract 45, 1.41 acres	50
Tract 46, 4.51 acres	150
Tract 47, 5.60 acres	200

4. *Preemption claims and qualifications.* A preemption right of purchase at the minimum price, of not exceeding two of the subdivisions involved, is extended to actual residents and claimants, for a period of ninety days from the date hereof. In order to secure such right the claimant must file in the United States District Land Office at Sacramento, California, during such period, an application for such preemption right of purchase, setting forth therein the land claimed, the date of settlement, the value and character of the improvements, that he or she is 21 years of age or over, or the head of a family, and that he or she is a citizen of the United States or has declared intention to become such. To qualify as a preemption claimant for the lots or tracts at the minimum price, settlement must be shown at the time of the commencement in the field of the townsite survey above involved, and maintained to date of proof. A claim is not necessarily forfeited by the settler transferring his or her interest to another, subsequently to accrual of the right, but patent, if issued, will be in the name of the settler and not the transferee.

5. *Publication notice.* The notice of intention to make proof must be made on Form 4-348 and must be published at the applicant's expense in the Siskiyou News at Yreka, California, a newspaper that comes out on Mondays and Thursdays. The notice should be published in the Thursday issue of the above newspaper for five consecutive weeks. The form of such notice shall be furnished by the Register of the District Land Office and shall conform to that usually provided for in this type of case. Proof of publication of notice must be shown by the affidavit of the publisher.

6. *Preemption proof.* Preemption proof may be made before the above Register or before any officer duly authorized by law and must show by record or documentary evidence, where such evidence is usually required, and where not so required by the testimony of witnesses the following: (1) due publication of notice, (2) the applicant's age, (3) the applicant's citizenship, and (4) the applicant's actual residence upon one lot and substantial improvements on a second lot where two lots are included in the application. The proof must embrace the testimony of the applicant and of at least two of the advertised witnesses. As to proof of citizenship, the claimant, if native born, may make affidavit of such fact, and if naturalized, the claimant should submit a sworn statement giving the facts as to citizenship status, which statement should include the date of the alleged naturalization or declaration of intention, the title and location of the court in which instituted and when available, the number of the document in question, if the proceeding has been had since September 26, 1906. In addition, in cases of naturalization prior to September 27, 1906, there should be given the date and place of the claimant's birth and the foreign country of which he or she was a citizen or subject.

7. *Purchase price.* The purchase price for the lots or tracts must be paid to the Register when proof is made.

FRED W. JOHNSON,
Commissioner.

Approved, December 6, 1939.

W. C. MENDENHALL,
Acting Under Secretary.

[F. R. Doc. 39-4736; Filed, December 21, 1939; 9:26 a. m.]

[1] These regulations are supplemental to Title 33, Code of Federal Regulations.

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 3—RULES GOVERNING STANDARD BROADCAST STATIONS

The Commission, on December 18, 1939, postponed the effective date of application of Section 3.32 (b),[1] insofar as it pertains to existing experimental stations, from January 1, 1940 to May 1, 1940.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39-4741; Filed, December 21, 1939; 11:05 a. m.]

Notices

WAR DEPARTMENT.

EXAMINATION FOR APPOINTMENT OF CHAPLAINS IN REGULAR ARMY

Appointment of chaplains in the Regular Army. 1. Examination of applicants for appointment as chaplains in the grade of first lieutenant in the Regular Army, under provisions of AR 605-30, April 21, 1938, and the following special conditions, will be held on January 30 and 31, and on February 1 and 2, 1940, in Washington, D. C.

2. In order to provide for existing or prospective denominational vacancies, application will be restricted to clergymen duly accredited to the following denominations:

Baptist, South.
Churches of Christ.
Evangelical and Reformed.
Lutheran, Missouri Synod.
Methodist.
Presbyterian in the U. S.
Presbyterian in the U. S. A.
Protestant Episcopal.
Roman Catholic.

3. Eligibility to compete in the examination will be confined to candidates who are at the time of the examination—

a. Male citizens of the United States between the ages of 23 and 34 years.

b. Regularly ordained, duly accredited by, and in good standing with one of the religious denominations listed above.

c. Graduates of both a 4-year college course and a 3-year theological seminary course.

d. Actively engaged in the ministry as the principal occupation in life and credited with 3 years' experience therein.

4. Formal applications on W.D., A.G.O. Form No. 62, accompanied by at least three letters of recommendation, small photographs of applicants, and proper ecclesiastical indorsements must reach The Adjutant General not later than January 20, 1940. Applications received after that date will not be considered.

[1] 4 F.R. 2717 DI.

(Sec. 24, 41 Stat. 774; 10 U.S.C. 231)
[Sec. I, Cir. No. 97, W.D., Dec. 16, 1939]

[SEAL] E. S. ADAMS, *Major General, The Adjutant General.*

[F. R. Doc. 39-4737; Filed, December 21, 1939; 10:46 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective December 22, 1939, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour, but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced stitching machine operators are not available.

(4) Any one of these Special Certificates may be canceled as of the date of its issue if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that skilled workers have become available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of stitching machine operators employed in the plant may be employed under any of these Certificates, unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Mr. M. P. Bixler, Millersburg, Pennsylvania (5 learners), shirts.

Carolina Handkerchief Co. Inc., West End, North Carolina (4 learners), handkerchiefs.

Cohoes Silk Undergarment Co., Cohoes, New York (5 learners), pajamas and slips.

Elder Manufacturing Co., Webb City, Missouri, shirts and waists.

Elin Manufacturing Corp., Rochester, Indiana (5 learners), work clothes.

Herman Funke & Sons, Ashley, Pennsylvania (4 learners), embroideries and laces.

Rob Roy Shirt Company, Cambridge, Maryland (5 learners), shirts.

Suffolk Overall Co., Inc. (5 learners), work clothing.

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT, *Director, Hearings Branch.*

[F. R. Doc. 39-4755; Filed, December 21, 1939; 12:48 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective December 22, 1939, until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[Here follows, in the original, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.]

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated hereinbelow.

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in

said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in any amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

NAME AND ADDRESS OF FIRM

Belmont Hosiery Company, Belmont, New Hampshire (5 learners).

J. W. Landenberger & Co., Philadelphia, Pennsylvania.

Miller-White Hosiery Mill, Taylorsville, North Carolina (5 learners).

Park Hosiery Mills, Inc., Carthage, North Carolina (5 learners).

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4756; Filed, December 21, 1939; 12:48 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective December 22, 1939, to August 22, 1940, unless otherwise indicated subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[*Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.*]

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

NAME AND ADDRESS OF FIRM AND NUMBER OF LEARNERS

Cherokee Hosiery Mills, Hickory, North Carolina, April 22, 1940 (13 learners).

Columbine Knitting Mill, Inc., Columbia, Mississippi (9 learners).

Thornton Knitting Company, Denton, North Carolina (14 learners).

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4757; Filed, December 21, 1939; 12:48 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE KNITTED WEAR INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Knitted Wear Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective December 22, 1939, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Knitted Wear Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has not been previously employed for more than eight (8) weeks in the aggregate during the preceding three (3) years upon sewing machine or knitting machine operations, respectively.

(2) The employment of learners under these Certificates is limited to the operation of sewing machines and knitting machines and for eight (8) weeks for any one learner. During this period, no learner may be paid at a rate less than 22½¢ per hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rate if in excess of 22½¢ per hour but in no event less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced operators are not available.

(4) These Special Certificates may be canceled as of the date of their issuance if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of their terms have been violated or that experienced workers have become available. No learner may be employed under these Certificates if hired when an experienced worker was available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of sewing machine and knitting machine operators employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Atlanta Knitting Mills, Catskill, New York, Ladies Underwear.

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4758; Filed, December 21, 1939; 12:48 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective December 22, 1939, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour: *Provided, however,* That if experienced workers are

paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available. No learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Certificates expire October 24, 1940 and are subject to cancelation sooner by the Administrator or his authorized representative for cause. These Certificates are issued on representations by the employers that experienced workers are not available and may be canceled as of the date of issue if it is found that they were issued when experienced workers were available and may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NUMBER OF LEARNERS

Not in excess of three (3) percent of the total number of persons in the learner occupations herein described employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name.

NAME AND ADDRESS OF FIRM AND PRODUCT

The American Mills Company, New Haven, Connecticut, cotton and rayon yarn.

Bellemont Weaving Company, Burlington, North Carolina, rayon thread.

Blue Ridge Rayon Mills, Altavista, Virginia, rayon thread.

Bristol Weaving Company, Bristol, Tennessee, rayon thread.

Burlington Mills, Plant No. 4, Burlington, North Carolina, rayon and cotton thread.

Calax Weaving Company, Calax, Virginia, drapery and tapestry fabric.

Central Falls Mfg. Company, Central Falls, North Carolina, rayon.

Greensboro Weaving Company, Greensboro, North Carolina, rayon thread.

High Point Weaving Company, High Point, North Carolina, rayon thread.

Hillcrest Throwing Company, High Point, North Carolina, rayon thread.

E. M. Holt Plaid Mills, Burlington, North Carolina, rayon thread.

Mooresville Rayon Mills, Mooresville, North Carolina, rayon thread.

Ossipee Weaving Company, Elon College, North Carolina, rayon thread.

Radford Weaving Company, Radford, Virginia, rayon thread.

Reidsville Throwing Company, Reidsville, North Carolina, yarns.

Roanoke Weaving Company, Roanoke, Virginia, rayon thread.

Royal Cotton Mill Company, Wake Forest, North Carolina, cotton yarn.

The Summit Thread Company, East Hampton, Connecticut, thread.

Suncook Mills, Allenstown, New Hampshire, rayon and cotton fabrics.

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4759; Filed, December 21, 1939; 12:49 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to employers listed below effective December 22, 1939, until March 22, 1940, unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name.

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available and no learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Special Certificates are issued on representations of employers that: (a) experienced operators are not available and (5) that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment. These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations Part 522, as amended, and are subject to cancellation by the Administrator or his authorized representative for cause. These Certificates may be canceled as of the date of their issuance if it is found, upon objection duly filed within fifteen (15) days following publication of notice of their issuance, that the issuance of these Certificates was not necessary in order to prevent curtailment of opportunities for employment. They may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's Certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

Name and address of firm	Product	Number of learners
W. Warren Thread Works, Westfield, Massachusetts.	Cotton thread	9

Signed at Washington, D. C., this 21st day of December 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4760; Filed, December 21, 1939; 12:49 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. G-109, G-112]

ILLINOIS COMMERCE COMMISSION, COMPLAINANT V. NATURAL GAS PIPELINE COMPANY OF AMERICA, AND TEXOMA NATURAL GAS COMPANY, DEFENDANTS AND IN THE MATTER OF NATURAL GAS PIPELINE COMPANY OF AMERICA AND TEXOMA NATURAL GAS COMPANY

ORDER FIXING DATE FOR RESUMPTION OF HEARING AND VACATING DIRECTION IN REGARD TO FILING BRIEFS

DECEMBER 19, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Leland

Olds, John W. Scott, concurring. Basil Manly, dissenting.

It appearing to the Commission that:

(a) On December 18, 1939, following oral argument had in the above entitled matter, the Commission directed Defendants-Respondents, Natural Gas Pipeline Company of America and Texoma Natural Gas Company, to file their briefs on the issues presented by the motion for an immediate order fixing just and reasonable rates based on the record made to date, which was filed by counsel for the Illinois Commerce Commission and counsel for the Federal Power Commission;

Upon further consideration of the aforesaid oral argument had on December 18, 1939, the Commission orders that:

(A) The direction of the Commission of December 18, 1939, requiring Defendants-Respondents to file the briefs mentioned in paragraph (a) above within 20 days from December 18, 1939, be and the same is hereby vacated;

(B) The hearing in the above entitled matter which was adjourned on December 14, 1939, subject to the further order of the Commission, be resumed on January 8, 1940, at 10 o'clock a. m., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., before Examiner Ewing G. Simpson;

(C) At said resumed hearing Defendants-Respondents shall have further opportunity to cross-examine the witness Charles W. Knapp, Jr., with respect to his redirect testimony and to present evidence in rebuttal of all evidence presented on behalf of the Illinois Commerce Commission and the Federal Power Commission on the issue of rate of return;

(D) Not more than five (5) days after the completion of the cross-examination and the presentation of evidence provided for in paragraph (C) above, counsel for the Illinois Commerce Commission and counsel for the Federal Power Commission shall file their briefs with respect to the issues presented by the aforesaid motion of said counsel;

(E) Not more than twenty (20) days after the completion of the cross-examination and the presentation of evidence provided for in paragraph (C) above, counsel for the Defendants-Respondents shall file their briefs with respect to the issues presented by the aforesaid motion of counsel for the Illinois Commerce Commission and counsel for the Federal Power Commission.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 39-4735; Filed, December 21, 1939; 9:26 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3977]

IN THE MATTER OF CHAMPION SPARK PLUG COMPANY

COMPLAINT

The Federal Trade Commission having reason to believe that Champion Spark Plug Company, a corporation, is violating and since June 19, 1936, has violated the provisions of Section 2 of the Clayton Act as amended by the Robinson-Patman Act (U.S.C., Title 15, Sec. 13), and has been and is using unfair methods of competition and unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Sec. 45), and it appearing to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission hereby issues its complaint, charging as follows:

I

Charging violation of subsection (a) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PARAGRAPH 1. The respondent, Champion Spark Plug Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with principal office and place of business located in Toledo, Ohio.

PAR. 2. Respondent is engaged chiefly in the business of manufacturing, distributing and selling spark plugs and spark plug parts for use in internal combustion gasoline engines. Respondent transports said products, or causes the same to be transported, for distribution and sale, from the places where such products are manufactured or stored to its customers and purchasers thereof located in other states of the United States and the District of Columbia; and there is and has been at all times herein mentioned a current of trade and commerce in said products manufactured and sold by respondent, between the states wherein respondent's factories and warehouses are located and various other states of the United States. Respondent's said products are sold by it for use, consumption or resale within the United States and the District of Columbia.

PAR. 3. Respondent distributes and sells spark plugs throughout the United States in the same territories and places as, and in substantial competition with, other persons and corporations engaged in the manufacture, distribution and sale of spark plugs. There are approximately sixty manufacturers of spark plugs in the United States, of whom respondent is one of the two largest in volume of plugs sold. More than ninety per cent of all spark plugs produced and sold in the United States during the past three years have been manufactured by respondent, A. C. Spark Plug Company, and Electric Auto-Lite Company. The business of the remaining spark plug manufacturers is relatively small.

PAR. 4. The principal market for spark plugs is found in the automotive industry. During 1936 respondent sold 18,000,000 spark plugs to automobile manufacturers for original equipment of automobiles, and 26,000,000 plugs through various channels for replacement of original equipment. Respondent supplies practically the entire original equipment requirements of the Ford Motor Company and respondent's plugs are also used for original equipment by Chrysler, Hudson, Studebaker, Packard, Nash, Graham-Paige, Willys-Overland, and other motor manufacturers.

Spark plugs for replacement of original equipment are sold by respondent to automobile manufacturers, wholesalers of automobile parts and accessories, mail order houses, and others. These customers of respondent, and many of their customers, are competitively engaged in the resale of spark plugs, at wholesale and retail, in the various territories and places where said customers, respectively, carry on their business. More spark plugs are sold in the United States for replacement than for original equipment. The life of a spark plug is normally shorter than the life of the engine in which it is used and spark plugs are usually replaced one or more times during the normal operating life of an automobile.

PAR. 5. In the course and conduct of its business as above described, respondent sells, and since June 19, 1936, has sold, its spark plugs for original equipment on the one hand and for resale for replacement on the other, at widely varying prices. Respondent sells its plugs to automobile manufacturers and others for original equipment at six cents per plug or less, while the prices charged by it to purchasers of plugs of like grade and quality who resell or use the same for replacement range from about twenty-three cents to thirty-one cents per plug. Respondent's average costs of manufacture, sale and delivery amount to more than six cents per plug. The ability of a spark plug or other automobile part manufacturer to sell his product in the replacement field depends very largely upon the extent to which his product is used for original equipment of automobiles. The adoption of such an article on a well known automobile has great advertising value, and it is the practice of automobile manufacturers to recommend to dealers and to car owners that in making re-

placements and repairs they use only parts of the same kind and manufacture as those with which the car was originally equipped. Demand for a particular spark plug in the replacement field, therefore, largely depends upon and is created by the adoption of that plug by motor manufacturers for original equipment. The effect of said discrimination in price by respondent between purchasers buying for original equipment and purchasers buying for resale or replacement is and may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which respondent is engaged, and to injure, destroy and prevent competition with respondent in the manufacture, distribution and sale of spark plugs.

PAR. 6. In the course and conduct of its said business respondent sells its regular type spark plugs to Ford Motor Company at twenty-four cents each and to Chrysler Corporation at about twenty-three and one-half cents each, for resale. Plugs of the same grade and quality are sold by respondent to its distributors and jobbers at thirty-one cents each, distributors receiving a rebate of ten per cent. Both Ford Motor Company and Chrysler Corporation are engaged in competition with said distributors and jobbers in the resale of such plugs to automobile dealers, fleet owners and others. Ford and Chrysler dealers, respectively, are likewise engaged in competition with said distributors and jobbers and with their customers. Said automobile manufacturers have knowingly received the benefit of such lower prices. The effect of such discrimination in price between said automobile manufacturers, respectively, and said distributors and jobbers has been and may be to injure, destroy and prevent competition with said manufacturers and with their respective customers in the resale of Champion spark plugs.

PAR. 7. In the course and conduct of its said business respondent sells spark plugs directly to certain wholesalers of automotive supplies and equipment, which it classifies as "distributors" and "jobbers". Respondent's price to jobbers for regular Champion plugs is 31¢ per plug. Distributors receive a discount or rebate of 10 per cent from this price, making the net price to them 27.9¢ per plug. Jobbers are generally engaged in competition with the distributors in their territory in the sale of spark plugs and other automobile parts and accessories. The effect of such discrimination in price by respondent between distributors and jobbers has been and may be substantially to injure, destroy and prevent competition with said distributors to whom respondent grants the benefit of such discrimination.

II

Charging violation of subsection (d) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PAR. 8. Paragraphs One to Four inclusive, of Charge I hereof are hereby repeated and made a part of this charge as fully and with the same effect as though here again set forth at length.

PAR. 9. In the course and conduct of its said business respondent has from year to year entered into contracts with certain wholesalers of spark plugs, classified by it as "distributors", some 375 of which contracts for the year 1939 are now in force, which contracts provide in part as follows:

"It is to be understood that this agreement has to do only with the special sales service to be rendered by us to promote the sale of Champion Spark Plugs in addition to the service customarily rendered by jobbers, without expressed or implied obligation to handle Champion Spark Plugs exclusively. All our purchases from you shall be made upon and subject to the terms, conditions, etc., stated in your 1939 Champion Jobbing Sales Policy, a copy of which has been delivered to us.

"In consideration of our complete cooperation in satisfactorily servicing Franchise accounts, sending you quarterly a record of their purchases, reporting to you dealers not handling Champions, requiring our salesmen to cooperate aggressively at all times in any Champion sales promotion activity, and distribution of such advertising matter as you may issue from time to time, all to your complete satisfaction for the full year of 1939, you are to pay us at the end of 1939, as special sales service compensation, ten per cent (10%) of your billing of Champion Spark Plugs and Cores to us, * * *:

* * * * *

"It is understood that you will advance the ten per cent (10%) special compensation to us quarterly, if up to the time of such advancement, we have kept this agreement to your complete satisfaction, * * *."

Pursuant to the terms of such contracts respondent has paid and is engaged in the practice of paying to said distributors, quarterly, ten per cent of the billing price of Champion spark plugs and cores purchased by said distributors, respectively, during the preceding quarter, as compensation and in consideration for "special sales service" furnished by said distributors, as mentioned in said contracts, in connection with the handling, sale and offering for sale of Champion spark plugs and cores. Said distributors are engaged in competition in the resale of Champion spark plugs and cores with other wholesalers, classified as "jobbers", purchasing such products from respondent. The payments made to distributors, as above described, are not available on proportionally equal terms to customers of respondent, other than said distributors, competing with them in the distribution of Champion spark plugs and cores.

III

Charging violation of Section 5 of the Federal Trade Commission Act, the Commission alleges:

PAR. 10. Paragraphs One to Five, inclusive, of charge I hereof are hereby repeated and made a part of this charge as fully and with the same effect as though here again set forth at length.

PAR. 11. In addition to the wholesalers, classified as "distributors" and "jobbers", to whom respondent sells its products directly, respondent also negotiates and enters into various agreements, known as "franchises", with numerous other wholesalers, retailers and consumers of said products, located throughout the United States, to whom said products are supplied through distributors and jobbers. The "Champion Wholesale Franchise" contains the following language:

"We hereby order from the first named Supplier listed below, as a new account, 1,000 Champion Spark Plugs, or, as a renewal account, sufficient Champion Spark Plugs to bring our stock up to 1,000 Champion Spark Plugs (assorted as indicated on this order) and request you to give your approval of a franchise to us upon our agreement to carry a minimum stock of 1,000 Champion Spark Plugs during the year 1939. We estimate our 1939 requirements at 10,000 or more plugs, and understand that prices and terms of payment are subject to change without notice.

"* * * the franchise to us may be withdrawn in case we do not market Champion Spark Plugs to your full and complete satisfaction.

"A contract with us will be completed when this order is accepted by the Supplier, * * *."

The price quoted in said "wholesale franchise" for regular Champion spark plugs is thirty-two and one-half cents, subject to change without notice. The "supplier" (distributor or jobber) from whom purchases are to be made by the franchise holder is named in the franchise.

The "Champion Merchandising Franchise" is in the same form, the dealer agreeing to carry a minimum stock of 500 Champion plugs and estimating his annual requirements at 5,000 or more plugs. The price quoted is thirty-four cents for regular plugs. In the "Champion Service Franchise", also in the same form, the dealer agrees to carry a minimum stock of 250 Champion plugs and estimates his annual requirements at 1,000 or more plugs. The price quoted for regular plugs is thirty-seven cents. Respondent also enters into three types of "commercial franchise" agreements with fleet owners and other large consumers of spark plugs. These franchises, like the dealer franchises, quote "special prices" of thirty-two and one-half, thirty-four and thirty-seven cents, respectively, "in consideration of your

purchasing Champion Spark Plugs for your requirements."

PAR. 12. The "Champion Jobbing Sales Policy," issued to all Champion distributors and jobbers, contains the following:

Suggested Resale Price to Dealers and Fleet Accounts

I. PRICES

	Your price	10 or more	Less than 10	List
Champion Plugs, All Regular Types [1]	$0.31	$0.41	$0.45	$0.65

[1] Each.

Prices are similarly quoted and suggested for other types of plugs. The "suggested" price to dealers and fleet owners purchasing regular plugs in lots of ten or more, not holding any of the above described franchises, is forty-one cents per plug.

The great majority of resales of Champion spark plugs at wholesale to franchise holders and other dealers are made by respondent's 375 distributors. The "Champion Distributor's Agreement", referred to in Paragraph Nine hereof and entered into by respondent with each of said distributors, provides that all purchases by the distributor shall be made subject to the terms and conditions of the "Jobbing Sales Policy", and that respondent shall pay to the distributor ten per cent of the billing price of plugs purchased during the year, but only on condition:

"(a) That we have made no sales, exchanges or shipments directly or indirectly to any accounts (dealers, wholesale house, export house, catalog house, purchasing agency, or others) except those we sell as regular dealers at dealers' prices in the territory regularly covered by our salesmen, unless or until such account has been approved for a Franchise by you, and/or we have your written approval to service them."

In order to receive and remain eligible for payment of the ten per cent "special service compensation" provided in said agreements, distributors are required thereby to sell Champion plugs to dealers not holding franchises at not less than forty-one cents per plug, and they may sell at the lower prices quoted in the above described franchises only to dealers holding such franchises approved by respondent, or otherwise with the written approval of respondent.

PAR. 13. As described in Paragraph Eleven hereof, differing prices, ranging from thirty-two and one-half cents per plug to thirty-seven cents per plug, are quoted by respondent in the various franchise agreements entered into by it with certain dealers in spark plugs. All of these prices are lower than the price of forty-one cents listed by respondent as the price to dealers not holding such franchises. In each case the "special price" quoted in the franchise is given upon the condition and agreement that the dealer will carry a minimum stock of Champion plugs, and in each case the dealer is required to estimate his probable annual purchases of Champion plugs at (for a wholesale or merchandising franchise) ten times the amount of the stock requirements. Such special price may be withdrawn by respondent at any time if the franchise holder fails to carry the required stock or purchase the estimated amount of Champion plugs. The payment by respondent of the ten per cent "special service compensation" to distributors is, by agreement, conditioned upon the distributor's "volume increase" having been "completely satisfactory" to respondent, and orders from distributors and jobbers are accepted by respondent upon condition that such orders or the unfilled portion thereof may be cancelled by respondent "should you fail to purchase and sell a satisfactory quantity of Champion Spark Plugs, or should your volume of Champion Spark Plug sales fail to reach the proportion of your total spark plug business that is satisfactory to us". The tendency and effect of said agreements and conditions is to induce the holders thereof to deal in Champion spark plugs exclusively and to prevent them from dealing in the plugs of respondent's competitors, to the extent of the stock requirements and turnover specified in said agreements. By negotiating such agreements and requiring its distributors to adhere thereto, respondent closes to its competitors a substantial number of actual and potential outlets for the distribution and sale of spark plugs.

PAR. 14. By the acts and practices above described respondent has agreed with and compelled its distributors to maintain the various prices fixed by respondent for the resale of its said products, in restraint of trade and commerce between the several states and in the District of Columbia; has obstructed, hampered and interfered with the normal and natural flow of trade and commerce in spark plugs and spark plug parts; has hindered and lessened competition in the distribution and sale of such products; and has injured its competitors by unfairly diverting business and trade from them and depriving them thereof; all to the prejudice and injury of the public.

Wherefore, the premises considered, the Federal Trade Commission on this 16th day of December, A. D. 1939, issues this its complaint against said respondent.

NOTICE

Notice is hereby given you, Champion Spark Plug Company, respondent herein, that the 19th day of January, A. D., 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed,

at Washington, D. C., this 16th day of December, A. D. 1939.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39–4754; Filed, December 21, 1939; 12:38 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1939.

IN THE MATTER OF JANSEN & COMPANY, 135 SOUTH LA SALLE STREET, CHICAGO, ILLINOIS

ORDER DENYING REGISTRATION

Jansen & Company, a corporation, having filed with the Commission on September 14, 1939, an application for registration as an over-the-counter broker and dealer under Section 15 (b) of the Securities Exchange Act of 1934, which application has not yet become effective; and

The Commission, on November 16, 1939, having ordered a hearing under Section 15 (b) of the Securities Exchange Act of 1934 to determine whether said application for registration should be denied and to determine whether the date upon which registration would become effective should be postponed pending final determination whether such registration should be denied; and

The said matter, after appropriate notice, having come on for hearing and at the hearing held on November 27, 1939, the applicant having filed an answer admitting the facts set forth in the Commission's order, and consenting to denial of registration; and

The Commission having duly considered the matter; and the Commission finding that denial of said registration is in the public interest and that applicant has wilfully violated Sections 17 (a) (1), (2), and (3) of the Securities Act of 1933, and Section 15 (c) (1) of the Securities Exchange Act of 1934; and the Commission being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934 that registration under said section as a broker and dealer be and the same is hereby denied to Jansen & Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4742; Filed, December 21, 1939; 11:29 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1939.

[File No. 8–1]

IN THE MATTER OF DUKER & DUKER, QUINCY, ILLINOIS

ORDER REVOKING REGISTRATION

The Commission having issued an order for proceedings and notice of hearing on the question of revocation and/or suspension of registration pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

The registrant having admitted the facts contained in said notice, waived opportunity for hearing, and consented to the entry of an order revoking its registration statement; and

The Commission having duly considered the matter, and entered its findings as contained in the Commission's Findings of Fact and Opinion this day issued; and

The Commission now being fully advised in the premises,

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Duker & Duker be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4743; Filed, December 21, 1939; 11:29 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1939.

[File No. 51–28]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION

ORDER DESIGNATING NEW TRIAL EXAMINER

The above-named party having filed an application pursuant to Rule U–12C–2 of the Public Utility Holding Company Act of 1935; the Commission by order dated December 12, 1939,[1] having set said matter down for hearing on December 22, 1939, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, Washington, D. C.; and the Trial Examiner designated to preside at said hearing now being unable so to preside;

It is ordered, That W. Gomer Krise, an officer of the Commission, be and hereby is designated to preside at such hearing in the place and stead and with the same powers and duties as the Trial Examiner heretofore designated to preside at such hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4744; Filed, December 21, 1939; 11:29 a. m.]

[1] 4 F.R. 4845 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December 1939.

[File No. 1–465]

IN THE MATTER OF CENTRAL COLD STORAGE COMPANY COMMON STOCK, $20 PAR VALUE

ORDER POSTPONING HEARING

The Central Cold Storage Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $20 Par Value, from listing and registration on the Chicago Stock Exchange; and

The Commission having ordered that a hearing be held in this matter on January 15, 1940,[1] in Chicago, Illinois; and

The Commission finding it necessary to postpone said hearing;

It is ordered, That said hearing be postponed until 10 a. m. on Tuesday, January 23, 1940 at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated may determine; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4746; Filed, December 21, 1939; 11:29 a. m.]

[1] 4 F.R. 4893 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December 1939.

[File No. 1–1982]

IN THE MATTER OF ALLIED INTERNATIONAL INVESTING CORPORATION COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Allied International Investing Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, January 11, 1940, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4745; Filed, December 21, 1939; 11:29 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1939.

[File No. 51–30]

IN THE MATTER OF ASSOCIATED GAS AND ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

Associated Gas and Electric Corporation has filed with this Commission, pursuant to Rule U–12C–3 under the Public Utility Holding Company Act of 1935, an application for an order of the Commission permitting the payment of interest from time to time during the period of six months from the date of such application, on the 5% Income Note of applicant, due 1980, in the unpaid principal sum of $71,805,120, owned and held by Associated Gas and Electric Company. Said note was issued as a dividend out of capital or unearned surplus, pursuant to resolutions adopted by the Board of Directors of applicant, on November 27, 1935, and was issued on said date.

It is ordered, That a hearing on such matter, under the applicable provisions of said Act and the rules of the Commission thereunder, be held on January 3, 1940, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW,. Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 28, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc 39–4747; Filed, December 21, 1939; 11:30 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1939.

[File No. 54–15]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY

ORDER DECLARING POST-AMENDED DECLARATION EFFECTIVE IMMEDIATELY

The Commission having entered an order herein on November 18, 1939, approving a plan of corporate simplification of Community Power and Light Company, which order also provided that the declaration of said company pursuant to Rule U–12E–5, with respect to the solicitation of authorization of certain matters by the stockholders of said company, become effective; the company having filed a post-amendment to its declaration herein on December 19, 1939, containing a copy of a supplementary or follow-up letter of solicitation intended to be sent out to its preferred and common stockholders, and having requested the Commission to shorten the period within which said declaration as thus post-amended shall become effective;

It is ordered, That said declaration as thus post-amended become effective immediately.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4748; Filed, December 21, 1939; 11:30 a. m.]